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House of Representatives

The House met at 10 a.m. and was called to order by the Speaker pro tempore (Mr. EWING).

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
April 23, 1998.

I hereby designate the Honorable THOMAS W. EWING to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Reverend James David Ford, D.D., offered the following prayer:

Of all Your wonderful gifts to us, and of all Your blessings so freely given, we offer our thanks and praise to You, O God, for the gifts of wisdom and discernment. We recognize that knowing only the details and facts of our circumstances is not enough, not enough to make good judgments, or to understand decisions. Teach us again, Gracious God, those values and ideals that have strengthened our Nation in days past, and which values and ideals will illumine our minds and help us to see more clearly the meaning and purpose of life. For wisdom in our decisions and for discernment in our judgments, we pray this day. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Nebraska (Mr. BEREUTER) come forward and lead the House in the Pledge of Allegiance.

Mr. BEREUTER led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will entertain ten 1-minute speeches on each side.

IN NEVADA EVERY DAY IS EARTH DAY

(Mr. GIBBONS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GIBBONS. Mr. Speaker, today I rise to remind my colleagues and our guests that yesterday was Earth Day. Interestingly enough, as I look back, last week Chicago residents protested and stopped a shipment of napalm from coming through their area. I am so pleased to know that the Federal Government is so committed to preserving and maintaining the environment that they have dedicated a whole 24 hours in its honor.

Well, Mr. Speaker, in Nevada every day is Earth Day, and the hard-working men and women of Nevada are so dedicated to maintaining the environment that they fight each and every day to stop 70,000 tons of high-level nuclear waste from being shoved down their throats.

I was encouraged by the overwhelming demonstration of support for Earth Day from my colleagues on both sides of the aisle. Consequently, I greatly anticipate their support in our effort to keep the environment safe from the dangers of transporting high-level nuclear waste through their communities.

What better way to celebrate every day as Earth Day than to stop the needless transportation through our communities of the deadliest material on earth.

I urge my colleagues to use science, not the politics of emotion, in supporting Earth Day.

COMMANDOS FINALLY RECEIVING JUSTICE

(Ms. SANCHEZ asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. SANCHEZ. Mr. Speaker, for the past year, I have been working to ensure that the United States Government honor a 30-year-old debt to former South Vietnamese Army commandos, who worked for the U.S. Government during the Vietnam War. And these individuals were recruited by the United States to cross enemy lines and fight the Communists on behalf of the Americans.

Last year, Congress unanimously approved legislation to finally pay the 30-year-old debt, and I am very happy to announce that the long wait for recognition and compensation may be finally over for the commandos.

To date, the Commando Compensation Board has processed 266 claims. One hundred forty-two commando cases have been approved, and these individuals are finally receiving their compensation.

I am pleased that the U.S. Government is finally honoring their contracts for their years of service and for their bravery in service to the United States. The least we must do is keep our word.

I look forward to the day that all of these cases are closed and every single commando receives his justice.

JAPAN'S ROLE IN THE ASIAN FINANCIAL CRISIS

(Mr. BEREUTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BEREUTER. Mr. Speaker, the world is closely watching Japan to determine if that country's leaders can steer the world's second largest economy clear of recession. The implications of their action or inaction is enormous for Japan itself, for the regional and global economy, and for the United States. Today at 1:30, in 2172 Rayburn, the Subcommittee on Asia and the Pacific, and the Subcommittee on International Economic Policy and Trade hear testimony on this subject, and on the legislation offered by this Member, the gentleman from California, Representative BERMAN and others, from four experts on Japan's role in the Asian financial crisis.

This Member urges interested Members to send their staff and to read the summary in the CONGRESSIONAL RECORD on this important and timely hearing so that we can all learn more about Japan's enormous role in our own future, and to review the suggestions of what Japan must do to ensure that the future is bright for all of us.

REAL CAMPAIGN FINANCE REFORM

(Mr. PALLONE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PALLONE. Mr. Speaker, I want to congratulate my Democratic colleagues and the Democratic leadership for a successful effort to push Speaker GINGRICH and the Republicans, and force them to bring up real campaign finance reform.

Speaker GINGRICH tried to get around his promise to bring up campaign finance reform by posting a phony bill with a sham procedure just before the April Congressional recess. Democrats responded by signing a discharge petition, and forcing the Republican leadership's hand.

Our Democratic leader, the gentleman from Missouri (Mr. GEPHARDT), was right when he said yesterday this was not a conversion, but a retreat by Speaker GINGRICH. He now promises to bring up campaign finance reform again in May.

Mr. Speaker, Democrats have to be vigilant and hold Speaker GINGRICH to his promise. Campaign finance reform needs to be brought up with an open rule so that Members have an opportunity to vote on proposals that will limit the amount of money in political campaigns, and not allow more money from wealthy special interests, and that is, of course, the position favored by Speaker GINGRICH and the Republican leadership.

TIME TO REIGN IN THE IRS

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Mr. Speaker, although the Liberals just hate to bash the IRS, ordinary Americans who pay taxes have no other choice.

Consider this: In Fortune Magazine recently it says that there were 119 million returns filed in the tax year 1996. Those returns triggered 28 million error notices. It turns out that one in 11 of those error notices was itself in error. So the IRS is routinely wrong about your being wrong.

Now, I did not learn arithmetic using ''whole math'' like our lucky kids today, but I come up with about 2.5 million IRS errors, 2.5 million times when the IRS is accusing you of being a tax cheat, when, in fact, you are just one more falsely accused taxpayer by the IRS.

The IRS is a place that does not operate under the same rules as society does. The IRS can accuse, make demands, confiscate, shut down, and make you prove that the IRS is wrong. And when the IRS is wrong, well, tough luck.

Mr. Speaker, it is time to rein in the IRS.

COMMON SENSE LACKING IN POLITICIANS IN WASHINGTON, D.C.

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, in America, Communists can work in our defense plants, illegal immigrants who jump the fence can get citizenship, there are law libraries for mass murderers; some want free condoms for school children, and some now want free needles for drug addicts. Think about it. Free condoms, free needles, but in America, no school prayer. Is it any wonder the streets of America are full of narcotics and blood?

The founders believed that a Nation without prayer would be a Nation without God. I agree. The Congress should pass school prayer.

I yield back the balance of any common sense left in any of the politicians in Washington, D.C.

OUTRAGE OVER WHITE HOUSE HIRING OF PRIVATE INVESTIGATORS

(Mr. TIAHRT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TIAHRT. Mr. Speaker, on February 22, 1998, White House Press Secretary Mike McCurry denied that any of President Clinton's private attorneys have hired or authorized any private investigator to look into the background of prosecutors or reporters.

Now, let us listen to that quote again, and let us think about whether we should keep on doing our business and ignore the White House deception and deceit, because, hey, the stock market is doing just great.

The President's press secretary denied any of President Clinton's private attorneys have hired or authorized any private investigators to look into the backgrounds of prosecutors or reporters. But it turns out that the private investigator himself, Terry Lenzner, admitted that he had, indeed, been hired by the White House to look into the private lives of journalists, Federal investigators and anyone else the White House wants to smear.

Finally, someone in the employ of the White House has the integrity to tell the truth. I guess the 900 FBI files illegally obtained were not enough dirt for them to dig up.

Mr. Speaker, we have a President hiring private investigators and then having his spokesman misrepresent the truth about it. I think when the American people understand this, both Republicans and Democrats alike will be outraged.

ENSURE CAMPAIGN FINANCE REFORM OCCURS

(Mr. DOGGETT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DOGGETT. Mr. Speaker, I believe that the millions of Americans who want some real change in the way our campaign finance system works and want to reduce the corrupting influence of money on our political system can be encouraged by the sudden reversal yesterday of Speaker GINGRICH and his announcement that we would, within the next 3 weeks, act on this floor in a fair, bipartisan way to address the problems that are so critical in this system.

However, I think all of us have to wonder whether this represents only another New Hampshire handshake. Americans will remember that it was back in 1995 in New Hampshire that Speaker GINGRICH promised President Clinton there would be action then on campaign finance reform.

We have had one broken promise, one bit of double talk, doublecrossing after another on this issue since then. So we must remain vigilant and involved to ensure that real reform occurs here, and not more talk and doubletalk.

EL PASO QUADRICENTENNIAL FESTIVAL

(Mr. REYES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. REYES. Mr. Speaker, beginning tomorrow, April 24 through April 26,

the city of El Paso, Texas, will host the El Paso Quadricentennial Festival. This festival is an international celebration, bringing together representatives from Spain, Mexico and other nations around the world to join in celebrating the 400th anniversary of the expedition of the Spanish explorer, Don Juan de Onate, through the Southwest.

His exploration began in January of 1598, when he and 400 other men and women traveled from Mexico through the present day El Paso, Texas. After numerous hardships during their journey, the expedition arrived along the banks of the Rio Grande River in April of 1598.

In gratitude for surviving their difficult travel and finding water along the Rio Grande, they observed a feast and celebrated with local Indians. This historical event is considered the first Thanksgiving, which occurred 22 years before the pilgrims landed at Plymouth, Massachusetts.

Mr. Speaker, it is important for our Nation to recognize this 400th anniversary. I am proud that El Paso is hosting this International Commemoration, as it enhances our country's understanding of the extensive influence of the Spanish language and culture on our heritage and origins of this Nation.

□ 1015

CONGRESS NEEDS TO STAND FIRM AGAINST THE WHITE HOUSE ON FREE NEEDLE PROGRAM

(Mr. BOB SCHAFFER of Colorado asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BOB SCHAFFER of Colorado. Mr. Speaker, many people remember the President's Surgeon General claiming that the answer to youth violence was safer guns and safer bullets; that the answer to sexual promiscuity among America's youth is condoms in schools. Now we have the answer to the escalating drug problem in America coming out of the White House, free needles to heroin addicts. Imagine that, Mr. Speaker, government-subsidized free needles to heroin addicts.

I submit the following: Any President who supports and would promote the subsidization of free needles to heroin addicts is just as guilty as any drug pusher or any drug user who causes death and destruction among America's communities today.

This level of social decay is unacceptable. This Congress needs to stand firm against the White House. The partnership for a Drug-Free America has met its match. The White House and the heroin industry formed the partnership for free drugs in America. Common sense needs to rule the day. We need to stand firm.

In a minute another member of the President's party is going to step to the microphone, and I want to ask directly, is he going to stand with Americans against this free needle exchange program, or is he going to talk about something else today?

THE PEOPLE STILL WANT COMPREHENSIVE CAMPAIGN FINANCE REFORM

(Mr. FARR of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FARR of California. Mr. Speaker, law enforcement in my district supports needle exchange.

Mr. Speaker, I rise today to point out that the majority party controls this House. This is the people's House. This is where people's voices can be heard, because everybody here has to be elected. We cannot run away from that responsibility.

When the Democrats controlled this House, we passed out several times, three times, in fact, campaign finance reform, comprehensive campaign finance reform. The last of those bills to reach the President's desk was vetoed by President Bush. The people still want comprehensive campaign finance reform. Their pressure now gives this House a second chance, after the leadership orchestrated a defeat by a two-thirds vote and by scheduling it on a day when one of the Members, a former Member, had a funeral.

So, Mr. Speaker, I ask Members to keep watching. Will we get a comprehensive campaign reform or will we see another orchestrated defeat?

PAY-GO MUST GO

(Mr. SAM JOHNSON of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SAM JOHNSON of Texas. Mr. Speaker, I want to talk about another ridiculous Washington budget rule called pay-go. This rule promotes big government spending while Americans pay taxes, higher taxes, as a matter of fact. Under pay-go, if we eliminated every welfare big government program, we could not give any of those savings back to the American people in the form of tax relief because of our own rules. It means we have to raise taxes to lower taxes. We have to change our rules.

Yesterday the gentleman from Arizona (Mr. J.D. HAYWORTH) and I introduced a bill just to do that. We must be able to cut big government spending, get Washington out of Americans' lives, and give the money back to the American people. After all, it is your dollars.

It is wrong that we cannot, for example, cut a $3 million TV documentary on infrastructure awareness and use that same money to eliminate the marriage penalty tax. Do Members not think families are more important than welfare government programs?

Pay-go is a stumbling block to good government. It must go.

COMMEMORATING FROSTBURG STATE UNIVERSITY'S CENTENNIAL ANNIVERSARY

(Mr. BARTLETT of Maryland asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARTLETT of Maryland. Mr. Speaker, I rise to commend an extraordinary community and its school. Frostburg State University in Frostburg, Maryland, celebrates its 100th anniversary this Sunday.

Frostburg State University began as a community dream. Actually, it was the community coal miners' dream. It was a dream that all parents dream for their children: a better life than theirs. They knew the key to this dream was education.

These concerned parents made a deal with the State legislature. The deal? If the coal miners could raise the money to buy the land for a State normal school, the General Assembly would appropriate funds for the buildings. These parents literally went door-to-door collecting money from their neighbors to keep their end of the deal. In April of 1898, the General Assembly of Maryland appropriated the funds for Maryland Normal School No. 2, which was built and opened its doors to 57 students.

Today, Frostburg State University enrolls more than 5,000 undergraduate and graduate students and helps tens of thousands of dreams come true. Congratulations, Frostburg State University.

WE CAN TRUST AMERICANS TO DECIDE ON CAMPAIGN FINANCE REFORM

(Mr. WELDON of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WELDON of Florida. Mr. Speaker, I would like to respond to the disingenuous statements made by liberal colleagues on the other side of the aisle. The other side talks as if one side of the aisle is on the side of the angels and supports campaign finance reform and the other side is against campaign finance reform. How ironic that the side that made a mockery of campaign finance reform laws in the 1996 elections now feels qualified to adopt a holier-than-thou attitude on this issue.

The truth is that the reforms that they are seeking are not even constitutional, which I guess is not surprising, given that post-sixties liberals are no longer champions of free speech. The liberals want to limit political speech. We do not. I think the American people are well qualified to decide this issue, once they know the facts.

PARENTAL INVOLVEMENT LEADS TO A BETTER AMERICA

(Mr. NEUMANN asked and was given permission to address the House for 1

minute and to revise and extend his remarks.)

Mr. NEUMANN. Mr. Speaker, it is a very special day here in Washington, D.C. I rise to extend a special welcome to a group of students that are out here, about 100 students from the Juneau School. It is a school where parents are actively involved. There are students here from Juneau, Hustisford, and Dodgeland, and we would like to express a special welcome to them this morning.

I think it provides an opportunity to talk about the fact that where parents are involved in the school and where parents are actively involved in their kids' lives, America benefits.

When we look at a school with students like what we have here this morning, where the parents are actively involved in the lives of these kids, we find that there is a dramatic drop in the probability of these students being involved in crime. We find a drop in the drug use rate. We find a drop in teen pregnancies in their future. We find less teen smoking. All the problems do not go away, but we sure recognize and understand that when the parents are actively involved in their kids' lives, like what happens at the school that is out here today, that certainly leads to a better America for all citizens.

JUDICIAL REFORM ACT OF 1998

Mr. GOSS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 408 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 408

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 1252) to modify the procedures of the Federal courts in certain matters, and for other purposes. The first reading of the bill shall be dispensed with. Points of order against consideration of the bill for failure to comply with section 303(a) of the Congressional Budget Act of 1974 are waived. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on the Judiciary now printed in the bill, modified by striking section 9 (and redesignating succeeding sections accordingly). Each section of that amendment in the nature of a substitute shall be considered as read. Points of order against that amendment in the nature of a substitute for failure to comply with clause 7 of rule XVI or section 303(a) of the Congressional Budget Act of 1974 are waived. During consideration of the bill for amendment, the Chairman of the Committee of the Whole may accord priority in recognition on the basis of whether the Member offering an amendment has caused it to be printed in the portion of the Congressional Record designated for that purpose in clause 6 of rule XXIII. Amendments so printed shall be considered as read. The chairman of the Committee of the Whole may: (1) postpone until a time during further consideration in the Committee of the Whole a request for a recorded vote on any amendment; and (2) reduce to five minutes the minimum time for electronic voting on any postponed question that follows another electronic vote without intervening business, provided that the minimum time for electronic voting on the first in any series of questions shall be 15 minutes. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the amendment in the nature of a substitute made in order as original text. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore (Mr. EWING). The gentleman from Florida (Mr. GOSS) is recognized for 1 hour.

Mr. GOSS. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to my friend, the distinguished gentleman from Ohio (Mr. HALL), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for purpose of debate on this subject only.

Mr. Speaker, House Resolution 408 is an open rule providing for the consideration of H.R. 1252, the Judicial Reform Act of 1998. The rule provides the customary 1 hour of general debate, equally divided between the chairman and ranking minority member of the Committee on the Judiciary.

The rule waives points of order against the consideration of the bill for failure to comply with section 303(a) of the Congressional Budget Act, which prohibits consideration of legislation providing new budget authority, changes in revenues, or changes in the public debt for a fiscal year until the budget resolution for that year has been agreed to.

The purpose of that section of the Budget Act is a sound one that we generally try to adhere to, keeping the budget process moving forward in a commonsense direction, with the budget resolution coming first and then allowing for subsequent consideration of the legislation that implements the provisions of the budget resolution.

In this case, however, we are technically required to provide this waiver, but our Committee on Rules has also provided a fix for the Budget Act problem. We have done that by making in order under this rule the amendment in the nature of a substitute recommended by the Committee on the Judiciary, modified by striking section 9 of that amendment which caused the 303(a) problem and redesignating succeeding sections accordingly.

Section 9 of the amendment specifically deals with the process by which cost of living adjustments for Federal judges are implemented. The effect of that section would have been to create a new mandatory spending category in the budget, something that we tried not to do outside the normal congressional budget process.

Apart from the substance of that issue relating to pay for judges, the Committee on Rules has attempted in this rule to preserve the integrity of the budget process.

Mr. Speaker, the rule further provides that each section of the amendment in the nature of a substitute shall be considered as read, and it waives points of order against that amendment for failure to comply with clause 7 of rule XVI prohibiting nongermane amendments, or section 303(a) of the Congressional Budget Act, for the reasons I just explained.

The rule accords priority in recognition to Members who have caused their amendments to be preprinted in the CONGRESSIONAL RECORD, assuming those amendments are in accordance with the standing rules of the House.

It further provides that the chairman of the Committee of the Whole may postpone votes during consideration of the bill and reduce the voting time to 5 minutes on a postponed question if the vote follows a 15-minute vote; and, finally, as is the custom, the rule provides for one motion to recommit, with or without instructions. That explains the rule.

Now, Mr. Speaker, with the exception of the technical Budget Act fix, this is a very straightforward rule. It is fair, and it is wide open. It allows all Members the chance to offer germane amendments and conduct thoughtful discussion about a very important subject.

I strongly support the premise behind this bill, that it is time to control judicial activism, the so-called runaway judges on the Federal bench. This statement alone is usually enough to generate controversy in many circles, and this debate is by no means a simple one, as it involves many of the most basic tenets of our democratic system and the separation of powers.

□ 1030

I think we could all come up with anecdotal evidence that there have been problems within the Federal judiciary with judges exceeding their charter and authority. The Committee on the Judiciary has, in my view, put forth a responsible product that deals with these problems by focusing on specific practices within the Federal courts that together constitute a real threat to the rights of citizens and the prerogatives of this Congress.

In my view, this legislation constitutes a measured and carefully justified response to legitimate problems. It is not simply throwing down the gauntlet. It is coming up with responsible solutions, which we will have ample opportunity to debate under an open rule.

I applaud the gentleman from Illinois (Mr. HYDE), and the subcommittee

chairman, the gentleman from North Carolina (Mr. COBLE) for their work on this bill. Still, I know that many Members have concerns about specific provisions of the legislation. Those Members will have their opportunity to air their concerns and propose alterations during the open debate and amendment process established by this rule.

I urge support for the rule and the underlying bill. I look forward to a lively and informative debate.

Mr. Speaker, I reserve the balance of my time.

Mr. HALL of Ohio. Mr. Speaker, I yield myself such time as I may consume. I want to thank my colleague for yielding me the time.

This is an open rule. It will allow for full and fair debate on H.R. 1252, which is the bill that modifies certain procedures of the Federal courts.

As my colleague from Florida described, this rule provides for 1 hour of general debate equally divided and controlled by the chairman and the ranking minority member of the Committee on the Judiciary. The rule allows amendments under the 5-minute rule, which is the normal amending process in the House. All Members on both sides of the aisle will have the opportunity to offer amendments.

Judicial decisions that force government action by their nature are unpopular. If those actions were popular, then the legislature and the administrations would have already taken them. Some of those unpopular decisions have resulted in the protection of our health, safety and civil rights. In recent years, some judges have assumed broad powers traditionally reserved for the legislative and the executive branches of State and local government. There is merit in some of the criticism of these actions when the result is an antigovernment backlash that weakens support for government.

But if this is a real problem, then the answer is really not this bill. I think the bill threatens to undermine the independence of the Federal judiciary and reduce efficiency. The Attorney General will recommend to the President that he veto the bill if it is passed in its current form. Mr. Speaker, even though the bill is flawed, there is nothing wrong with this rule. It is open. It should be supported. I support it.

Mr. Speaker, I reserve the balance of my time.

Mr. GOSS. Mr. Speaker, I yield myself such time as I may consume.

May I inquire of my colleague through the Chair if he has any speakers? We have none, and we would just as soon get on with the debate, and yield the balance of the time, if that fits with the pattern from the other side.

Mr. HALL of Ohio. Mr. Speaker, will the gentleman yield?

Mr. GOSS. I yield to the gentleman from Ohio.

Mr. HALL of Ohio. Mr. Speaker, I had expected two speakers, but they have not shown up. Therefore, I will yield back the balance of my time.

Mr. GOSS. Mr. Speaker, I would be very happy to afford the gentleman an extra minute or so if he is aware that those Members are coming.

Mr. HALL of Ohio. I am not aware. I was just asked, before we started, they asked to speak on it. They have not arrived.

Mr. FRANK of Massachusetts. Mr. Speaker, will the gentleman yield?

Mr. GOSS. I yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. Mr. Speaker, I will be managing the bill on our side. I think Members will have general debate. There will be an hour of general debate that is not going to be overfilled with requests for time. I think they can be accommodated.

Mr. GOSS. Reclaiming my time, if it is my time, I understand, and we have no speakers, and we are going to yield back in about a minute, and call for the question. We are not intending to call for a recorded vote. We believe that it is an open rule, and there is no need to do that.

We also agree with the distinguished gentleman from the Commonwealth of Massachusetts that there is ample debate opportunity today because of this very fair open rule that we have crafted. We are certainly looking forward to that debate, and would not want to put any impediment to it. Unfortunately, we are not quite logistically prepared to begin the debate.

Mr. FRANK of Massachusetts. Mr. Speaker, if the gentleman will continue to yield, I thank the gentleman. I thought I would help him because he seems to be in no great hurry. We are not waiting for the Speaker to come back from Florida again, are we, like yesterday?

Mr. GOSS. Reclaiming my time, Mr. Speaker, I am delighted that the gentleman brought the Speaker's trip to Florida up. It shows the outreach that we have in this House to go to the important States in our Nation, Florida being the fourth most populace State, and a place where we will all go sooner or later, which we are very proud to represent, those of us who are there now. I believe the Speaker has returned from Florida, and has done brilliant things there.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I come before you today to speak to you about an important rule on an important piece of legislation. I am pleased that this rule is an open rule and that both Democrats and Republicans are able to come together on the floor of the House and offer reasonable common sense amendments that improve this bill. However, I am disturbed that the judicial pay raise amendments were not made a part of this rule. The Federal Judges do alot more than just come to work. They interpret the law and preserve justice. Increasing Federal judicial compensation is important because the Federal Judiciary is composed of men and women who give up alot of money to work in the public sector. We all know that they give up alot for this special type of public service and they should be justly compensated for it. I have an amendment that was made in order. This amendment would permit a federal court to enter an order restricting the disclosure of information obtained through discovery or an order restricting access to court records in a civil case only after making a finding of fact that such order would not restrict the disclosure of information which is relevant to the protection of public health and safety. I am glad that this rule includes my amendment but it should have included amendments that improve and increase Federal judicial compensation.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. KNOLLENBERG). Pursuant to House Resolution 408 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 1252.

The Chair designates the gentleman from California (Mr. RIGGS) as Chairman of the Committee of the Whole, and requests the gentleman from Illinois (Mr. EWING) to assume the chair temporarily.

□ 1042

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 1252) to modify the procedures of the Federal courts in certain matters, and for other purposes, with Mr. EWING (Chairman pro tempore) in the Chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from North Carolina (Mr. COBLE) and the gentleman from Massachusetts (Mr. FRANK), each will control 30 minutes.

The Chair recognizes the gentleman from North Carolina (Mr. COBLE).

Mr. COBLE. Mr. Chairman, I yield myself such time as I may consume.

H.R. 1252, the Judicial Reform Act of 1998, is a restrained but purposeful effort to combat specific areas of abuse that exist within the Federal judiciary. The gentleman from Illinois (Mr. HYDE), as he spoke to the Committee on Rules yesterday, said this bill perhaps goes too far for some Members, not far enough for others. But that is not unlike much legislation that we consider in this hall.

Before describing what the bill does, however, let me emphasize what it does not do; namely, it will not compromise the independence of the Federal judiciary, which is an indispensable attribute for that branch of the Federal Government, nor is H.R. 1252 an attempt to influence or overturn legal disputes. Above all, we most certainly are not creating a novel, more lenient standard of impeachment to remove particular judges from the Federal

bench without cause or to intimidate them with a threat of doing so. That said, the Judiciary Reform Act of 1998 is largely an amalgam of ideas developed by various Members of Congress that will curtail certain abusive practices within our Federal court system.

Specifically, the bill consists of six procedural changes in furtherance of this end. In addition, the four other reforms that will improve other matters related to article 3, Federal courts. The six core revisions set forth in the bill concern the following matters:

First, a featured component of the bill was initially developed by our colleague and good friend, the late Sonny Bono. It would require three judge panels to hear constitutional challenges of State laws enacted pursuant to voter referenda. Under current law, a single judge possesses the power to invalidate the results of a State-wide referendum.

Second, H.R. 1252 would permit interlocutory or interim appeal of class-action certifications championed by the gentleman from Florida (Mr. CANADY). This provision would enable litigants to a class-action suit to appeal a decision certifying a national class prior to the conclusion of a trial.

Currently, defendants may expend a great deal of financial resources through trial only to find upon appeal that a class was improperly certified at the outset of litigation. Third, the measure infuses greater objectivity in the current process by which citizens may register complaints against Federal judges for misconduct.

Present law on the subject is premised on a peer review system by judges from the same circuit. Pursuant to the change set forth in this bill before us, complaints which do not speak to the merits of a decision, or are not otherwise frivolous will be referred to a different circuit.

□ 1045

This means that truly substantive complaints will be more objectively reviewed by judges who have no personal ties to the judge who is the subject of the complaint. The gentleman from Tennessee (Mr. BRYANT) and the gentleman from Indiana (Mr. PEASE) contributed to this section of the bill.

Fourth, H.R. 1252 would inhibit the ability of Federal courts to require States and local municipalities to raise taxes on the affected citizenry to pay for projects that the States and municipalities are unwilling to fund themselves.

While a Federal court may possess the technical right under certain conditions to devise such a remedy to redress a constitutional harm, we have carefully crafted some parameters that will constrain the practice of judicial taxation. The gentleman from Illinois (Mr. MANZULLO), whose district is home to a city which is subject to a judicial taxation order, contributed to this portion of the bill.

Fifth, the gentleman from Florida (Mr. CANADY) worked with our former colleague Dan Lungren, who presently serves as Attorney General for California, to create a procedural right for a litigant to request one time only that a different judge be assigned to his or her case. Some judges are so possessed of an injudicious temperament or are otherwise biased as to warrant this revision.

Sixth, it is has come to our attention that some Federal judges are unalterably opposed to enforcing the death penalty, even to the point of dragging their feet on expeditious consideration of habeas corpus petitions to forestall execution. Based on comments made by the gentleman from Massachusetts (Mr. DELAHUNT), this section of the bill would prevent the chief justice of a circuit from reserving all such petitions for one judge on an exclusive basis.

Mr. Chairman, there are three other items contained in the Judicial Reform Act that do not otherwise speak to abusive judicial practices but will nonetheless improve the functioning of our Federal courts. They are:

One, the permitted practice of televising proceedings in our Federal appellate courts and, for a 3-year period, in our district or trial courts, suggested to at the discretion of the presiding judge;

Second, the expedited consolidation of cases pertaining to complex, multidistrict disaster litigation;

And, third, the allowance of an additional 30 days, or a total of 60 days, for the Office of Personnel Management to appeal adverse personnel decisions consistent with appellate procedure for other Federal agencies.

Again, Mr. Chairman, these provisions are straightforward and restrained in their application and will assist in promoting equity for litigants and taxpayers within the Federal court system. I urge all Members to support passage of H.R. 1252.

Mr. Chairman, I reserve the balance of my time.

Mr. Chairman, I ask unanimous consent that the bill be open for amendment at any point.

The CHAIRMAN. That request by the gentleman may be made after general debate has concluded and the Committee begins the 5-minute rule.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield myself such time as I may consume.

Let me say, I appreciate the gentleman making the request. Because even though it cannot be acted on until the 5-minute rule begins, Members who may be interested should know it is our intention to have amendments be in order at any point so they do not have to worry about a section-by-section reading. I do not believe we have a large number of amendments.

Mr. Chairman, the Subcommittee on Courts and Intellectual Property, on which I am pleased to serve with the gentleman from North Carolina (Mr. COBLE), has a good deal of business which we do in a nonideological way and in a nonpartisan way, and I am very proud of that. The intellectual property jurisdiction we have is an important one, and we have had some judicial reform bills.

This bill does not, however, conform to that pattern. This is an exception in that it is one on which I think we have some fairly sharp division, and the reason we have the division I think frankly stems from some frustration on the part of some of those on the other side.

There are people particularly in the very conservative wing of the Republican party, which I must say has outgrown wing status. It is now at least a wing and a tail and maybe another wing and a couple of beaks. They do not like some of the things that the courts do. I believe that their problem, however, is not so much with the courts as with the Constitution. And there is not a great deal we can do about the Constitution. We try.

We recently have sought on the floor, at least some have sought on the floor, to amend the Constitution with great regularity and with equal lack of success. The Congress has voted down half a dozen or more efforts to change the Constitution. Not being able to change the Constitution, the people in the conservative wing of the Republican party have decided to demonize it instead and to denounce the judges. But there is a great disconnect between the violence of the rhetoric and the actuality of the legislation.

I am going to vote against this bill. I am glad that the President plans to veto it if we pass it as-is, although we could make it passable under some aspects of the bill which I think are very useful. But even if it were to pass, it would have virtually no effect on the kinds of things that people complain of.

In fact, one of the most interesting facts is that, while people on the conservative side complain about this bill because they say it empowers an inappropriate form of judicial activism, it is very clear if we study this that they simply do not like the results. They simply do not like courts finding that this or that statute might not be permissible under the Constitution. Because if we look at the judges who have been judicial activists, what we find, of course, is that the most conservative justices of the Supreme Court, for example, are also the most judicially active.

Justices Scalia and Thomas, the two most conservative justices, strongly supported by the conservatives, have in fact voted to invalidate more statutes, to find more acts of Congress unconstitutional than their more moderate and liberal counterparts. If in fact they think it is a terrible idea for the Supreme Court to strike down statutes, then they would be very critical of Mr. Scalia and Mr. Thomas, the Religious Freedom Restoration Act that they did not like, the Brady Bill, parts of which they did not like. There are a whole series of them. And the conservative justices are in league.

One of the most glaring examples of this came recently with regard to a series of decisions in California where judges in California found referenda unconstitutional. Now, in a couple of cases, at least in one case, a district judge found the referendum unconstitutional under affirmative action. That district judge was promptly overruled. No harm was done to the cause of the people who were against it. We went through the regular procedure.

And if we listen to my Republican friends, we might get the impression that they do not like the idea of a Federal judge invalidating a popular referendum. But if we got that idea, Mr. Chairman, we would be wrong.

Sometimes in an excess of their concern over a particular case, my friends on the other side overstate their allegiance to general principles. Because, in fact, when the people on the Republican Party do not like the result of a referendum, what do they do? Well, in California, they go to court and they ask a single district judge to invalidate it.

Indeed, it seems to me clear that, with regard to judicial activism, my friends on the other side have essentially the same position with regards to States'
rights. They are against it except when they like it. They are prepared to denounce it when it produces a result they do not like. But when it gets in the way of a result they like, then they ignore it. That is where they are on States' rights, and that is a perfectly valid viewpoint.

That is, it is valid to be result-oriented. It is valid to say, I am going to hope for the right decision. What is not intellectually valid, it seems to me, is to assert adherence to a principle to which one does not, in fact, adhere. And when we talk about States' rights but are prepared to disregard States' rights and talk reform and criminal procedure and economic regulation and consumer protection, then we really forfeit our rights to talk about States' rights. And when we denounce judicial activism but Honor Justices Scalia and Thomas, our two most active justices, then it seems to me we undercut our argument.

And with regard to the notion that somehow it is a terrible thing for a district court judge to invalidate a popular referendum, let me read a refutation of that view. I am reading from a legal brief.

The blanket primary is not valid because it apparently was passed by a majority of Democrats and Republicans who voted in the 1996 election. Voters cannot validly enact a law which conflicts with parties' rules governing the nomination of candidates and infringes their first amendment rights any more than can a legislature.

Let me read that again correctly. ''Voters cannot validly enact a law which conflicts with parties' rules governing the nomination of candidates and infringes their first amendment rights any more anymore than a legislature.''

Let me also now read. ''Even if the electorate could enact statutes to regulate the selection of nominees for partisan offices, it cannot do so in a way that undermines the integrity of the electoral process.''

And then quoting with approval another decision, ''Voters may no more violate the Constitution by enacting a ballot measure than a legislative body may do so by enacting legislation. A court must undertake the same constitutional analysis of laws passed by initiative as by a legislature. There is little significance to the fact that a law was adopted by a popular vote rather than as an act of the State legislature. Indeed, there are substantial reasons for according deference to legislative enactments that do not exist with respect to proposals adopted by initiative.'' And that is a quote again from another decision.

Now, where do these arguments in favor of allowing a single Federal district judge to invalidate a referendum of the people of California if it was unconstitutional come from? What radical group, what group of anti-public elitists, what sneering left-wingers, unwilling to let the people decide, put this forward? Who says that, in fact, the legislative enactment might even get more deference from a court than the people? Who are these judicial activist encouragers who so sneer at the public? They are the California Republican Party.

I am quoting from the brief filed by the California Republican Party, Michael Schroeder, Shawn Steel, and Donna Shalansky. Not that Shalala. Donna Shalansky. It was filed July 28, 1997. Because the people of California dared to pass a referendum changing the way candidates are nominated for office which the Republican and Democratic Parties of California did not like.

So the Republican Party of California went to court with the Democratic Party of California and said, judge, you make those people stop violating my constitutional rights. And they wrote down here that just because the people did it in a referendum does not mean anything. In fact, it may mean it is even less entitled to respect than when the people do it.

□ 1100

Of course, we have a bill on the floor that does exactly the opposite. We have a bill on the floor that says that, if a referendum is involved, we have to have a three-judge court.

It just seems to me, Mr. Chairman, that there ought to be some limit to the extent to which a gap is allowed to exist between what people say they truly believe and what they do when it is important to them.

So what we have here is a cry of frustration. We have the right wing not liking the fact that the court sometimes enforces constitutional rights. So they talk about all the doctrines which they, it does not seem to me, follow themselves when they are inconvenient.

So they come forward with a bill which is mostly a nuisance and interference and a derogation from the efficiency of our Court system. We will be offering some amendments to try to clear that up. And absent the passage of those amendments, I hope the bill is defeated.

Mr. Chairman, I reserve the balance of my time.

Mr. COBLE. Mr. Chairman, I yield 7 minutes to the distinguished gentleman from Illinois (Mr. HYDE), the Chairman of the House Committee on the Judiciary.

(Mr. HYDE asked and was given permission to revise and extend his remarks.)

Mr. HYDE. Mr. Chairman, I will restrain myself from quoting the well-known line about a foolish consistency, because I tend to agree with the gentleman from Massachusetts (Mr. FRANK). I think consistency is a virtue, and I do not have the time to point out inconsistencies on the left.

Mr. FRANK of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. Mr. Chairman, I thank the gentleman, because my good friend from Illinois and I do not always agree on the definition of virtue, so I am glad we do in this case.

Mr. HYDE. Mr. Chairman, that is right, at least in this instance. But I would like to suggest that I think he proves too much when he refers to this bill as somehow hostile to the vibrancy, the vitality, the importance, the significance of the Federal judiciary. Just the opposite; it is an effort to make the Federal judiciary work better.

We will have amendments here, and we will debate this issue, but I do not think there is anything in the bill that is hostile at all to the notion of the third branch of government and its very important role in the functioning of our democracy.

As to the three-judge panel, somehow the gentleman from Massachusetts views that as a derogation of authority, proper authority that belongs to the courts. I would just simply suggest that the notion of setting aside by injunction a referendum that has passed through a State process where members of the State have voted in the referendum is a topic of some significance and deserves the gravity of a three-judge court rather than just one judge.

I say that because we do this in the context of three-judge courts already deciding appeals from voting rights cases and reapportionment cases. I am sure the gentleman from Massachusetts supports enthusiastically the notion that three-judge courts have to hear voting rights cases. They are important. Three-judge courts ought to hear appeals on reapportionment because they are important.

We feel a State referendum is equally important. So rather than derogating from the importance of the Federal courts deciding these, we are adding some gravatas to the process by saying where an entire State has voted on an issue, that the setting aside of that should be done by a three-judge court rather than one.

Mr. FRANK of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. Mr. Chairman, I thank the gentleman for yielding to me. I would say, as our friend from North Carolina had reminded us, the original reason for a three-judge court in the voting rights case had to do with the unfortunate history of judges in the South, who did not really believe in it. I do not think that there was need for it any further, and I would not insist on maintaining it.

I would say with regard to the substance of what the gentleman said, I understand his argument that there is something special about a referendum. But the California Republican Party filed a lawsuit directly contradicting that.

I would ask the gentleman, do the California Republicans, who serve on the Committee on the Judiciary, have they talked to the California Republican Party and tried to enlighten them and correct this error, which they have so strongly propagated?

Mr. HYDE. Mr. Chairman, I would say to my friend, the gentleman from Massachusetts, that is the one aspect of this controversy I have not researched. But I can also tell him that I will not research it. But, nonetheless, the purpose of the three-judge court is a recognition of the significance of an entire State voting on a referendum, and giving it the added dignity of a three-judge court to set aside the expressed wish of perhaps millions of people; the same as in voting rights appeals and in reapportionment.

Mr. FRANK of Massachusetts. Mr. Chairman, I ask the gentleman to yield.

Mr. HYDE. Mr. Chairman, this is almost amounting to harassment, but I, nonetheless, in the mood of accommodation, yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. Mr. Chairman, I seek no quid pro quo, so I do not think it is harassment.

Mr. COBLE. Mr. Chairman, I did not hear what the gentleman said.

Mr. FRANK of Massachusetts. Mr. Chairman, I seek no quid pro quo, so I do not think it is harassment because I am not the gentleman's supervisor.

I would say to the gentleman that I appreciate his talking about the relevance of respecting the wishes of millions of California voters in a referendum. I hope when the resolution condemning those same voters for voting for medical marijuana comes up that the respect that the gentleman is now showing for those California voters does not evaporate as rapidly as I fear it might.

Mr. HYDE. Mr. Chairman, I yield to the gentleman's superior knowledge on marijuana.

I simply would like to say that the rest of this bill deals with improvements in the Federal court system, abuses that can occur in class-action certifications, questions of judicial misconducts. Some of us feel those are better handled by a committee in another circuit rather than the circuit where the judge practices or sits.

We deal with questions of courts ordering taxing bodies to raise taxes. We feel that is a violation of separation of powers. We like to help avoid getting stuck, if I may use that inelegant term, with a judge who is inappropriate for a particular party or litigant or lawyer by letting us at least change once, which we can do in every circuit court throughout the country. We deal with cameras in the courtroom handling capital punishment appeals.

So this is a good bill. I do not doubt it is controversial. It is not hostile to the courts. We will have a struggle perhaps later on over judicial pay. Some people who just congenitally dislike judges will have their say, but that is for later in the day.

SUMMARY OF H.R. 1252, THE JUDICIARY REFORM ACT OF 1998

This necessary legislation addresses one of the most disturbing problems facing our constitutional system today—the infrequent but intolerable breach of the separation of powers by some members of the Federal judiciary.

THREE-JUDGE PANELS

The first reform contained in this bill was developed originally by a valued member of the Committee on the Judiciary, the late Representative Sonny Bono of California. Recognizing the unjust effect on voting rights created by injunctions issued in California by one judge against the will of the people of the State as reflected in Propositions 187 and 209, H.R. 1252 provides that requests for injunctions in cases challenging the constitutionality of measures passed by a state referendum must be heard by a three-judge court. Like other federal voting rights legislation containing a provision providing for a hearing by a three-judge court, the Judicial Reform Act of 1998 is designed to protect voters in the exercise of their vote and to further protect the results of that vote. It requires that legislation voted upon and approved directly by the citizens of a state be afforded the protection of a three-judge court pursuant to 28 U.S.C. §2284 if an application for an injunction is brought in federal court to arrest the enforcement of the referendum on the premise that the referendum is unconstitutional. This system already applies to Voting Rights Act and reapportionment cases.

In effect, where the entire populace of a state democratically exercises a direct vote on an issue, one federal judge will be able to issue an injunction preventing the enforcement of the will of the people of that state. Rather, three judges, at the trial level, according to procedures already provided by statute, will hear the application for an injunction and determine whether the requested injunction should issue. An appeal is taken directly to the Supreme Court, expediting the enforcement of the referendum if the final decision is that the referendum is constitutional. Such an expedited procedure is already provided for in other voting rights cases. It should be no different in this case, since a state is ''redistricted'' for purposes of a vote on a referendum into one voting block. The Congressional Research Service estimates that these three-judge courts would be required less than 10 times in a decade under this bill, causing a very insubstantial burden on the federal judiciary, while substantially protecting the rights of the voters of a state.

This bill recognizes that state referenda reflect, more than any other process, the one-person/one-vote system, and seeks to protect a fundamental part of our national foundation. This bill will implement a fair and effective policy that preserves a proper balance in federal-state relations.

INTERIM APPEALS OF CLASS ACTION CERTIFICATIONS

The second reform contained in this bill was developed by the Chairman of the Subcommittee on the Constitution, Representative Charles Canady of Florida. It allows immediate (interlocutory) appeals of class action certifications by a federal District judge.

When a District judge determines that an action may be maintained as a class action, the provisions contained in the Judicial Reform Act allow a party to that case to appeal that decision immediately to the proper Court of Appeals without delaying the progress of the underlying case. This prevents ''automatic'' certification of class actions by judges whose decisions to certify may go unchallenged because the parties have invested too many resources into the case before an appeal is allowed.

This bill will also prevent abuses by attorneys who bring class action suits when they are not warranted, and provides protection to defendants who may be forced to expend unnecessary resources at trial, only to find that a class action was improperly brought against them in the first place. As a practical matter, the outcome of a class-action suit is often determined by whether the judge elects to certify a class since certifications may guarantee that a plaintiff's attorney can extract a favorable settlement, irrespective of whether the certification was proper.

COMPLAINTS AGAINST JUDICIAL MISCONDUCT

The third reform contained in this bill was developed by another member of the Committee on the Judiciary, Representative Ed Bryant of Tennessee. It requires that a complaint brought against a federal judge be sent to a circuit other than the one in which the judge who is the object of the complaint sits for review. This will provide for a more objective review of the complaint and improve the efficacy of the Judicial Councils Reform and Judicial Conduct and Disability Act of 1980, 28 U.S.C. §372 (''The 1980 Act''), which established a mechanism for the filing of complaints against federal judges.

Under those procedures, a complaint alleging that a federal judge has engaged in conduct prejudicial to the effective and expeditious administration of the business of the courts may be filed with the clerk of the U.S. Court of Appeals for the circuit in which the federal judge who is the subject of the complaint sits. Under the Act, a special committee will report to the judicial council of the circuit, which will decide what action, if any, should be taken.

By requiring that complaints filed under the 1980 Act be transferred to a circuit other than the circuit in which the alleged wrongdoer sits, more objectivity and accountability will exist for litigants who find themselves in need of relief from a judge who is

not properly performing his or her functions. In addition, the bill has been amended to limit out-of-circuit referrals to those cases in which a complaint is not dismissed as being incomplete, frivolous, or directly related to the merits of a decision or procedural ruling. This amendment represents an effort to respond to those critics who assert that the revision to existing complaint procedures will generate unnecessary and trivial administrative expenses for out-of-circuit judges. In other words, only ''substantive'' complaints will be referred out of circuit.

JUDICIAL TAXATION

The fourth reform contained in this bill prohibits a federal court from ''expressly directing'' or ''necessarily requiring'' that a state or municipality impose taxes on its citizenry, a function reserved to legislative bodies, for the purpose of enforcing a legal decision. Seizing the power of the public purse by imposing taxes on any community is an egregious example of how some members of the judiciary have breached this nation's founding principle of separation of powers and undermined the concept of self-rule.

In some cases, judges have designed in specific detail local school systems and public housing systems, and then ordered tax increases to finance the spending bills disguised in their judicial rulings. The most conspicuous example illustrating this problem is the ongoing case of *Missouri* v. *Jenkins,* in which the Supreme Court has issued three opinions and the court of appeals more than 20. In Jenkins, the Supreme Court ruled that while it was permissible for the lower court in the Kansas City school system to order the state or municipality to raise taxes to remedy a constitutional deprivation, it remanded and reversed the lower court decision based on the fact that the lower court lacks the authority to impose a tax itself; it must order the state or local municipality to do so. The Jenkins litigation also demonstrates that once a federal court seizes such a ''structural reform'' case, it will constantly reevaluate its progress for years until the ''constitutional deprivation'' has been cured.

State and federal laws leave budget and spending authority to legislative bodies, because only a body which represents the will of the people can decide properly how to spend the people's taxes. While rulings on due process are important to protect the rights of litigants, and remedy which would force the public to pay more in taxes must come from the House of the people and not from the authority of the bench. The judiciary is neither equipped nor given the power to make such decisions. To allow otherwise is to usurp self-rule and replace it with self-appointed authority. As four justices of the United States Supreme Court have stated, the imposition of taxes by courts ''disregards fundamental precepts for the democratic control of public institutions. The power of taxation is one that the federal judiciary does not possess.''

This bill will restore the proper balance defined in the Constitution between the federal branches and federal-state relations by forbidding any U.S. District court from entering an order or approving a settlement that requires a state or one of its subdivisions to impose, increase, levy, or assess any tax for the purpose of enforcing any federal or state common law, statutory, or constitutional right or law.

This reform contains a narrow, multi-part exception to the general prohibition of judicially-imposed taxation. Specifically, a court may not order a state or political subdivision to impose a tax unless the court first determines by clear and convincing evidence that: (1) there are no other means available to remedy the relevant deprivation of rights or laws, and the tax is narrowly tailored and directly related to the specific constitutional deprivation or harm necessitating redress; (2) the tax will not exacerbate the deprivation intended to be remedied; (3) the tax will not result in a revenue loss for the affected subdivision; (4) the tax will not result in a depreciation of property values for the affected taxpayers; (5) plans submitted by state or local authorities will not effectively redress the relevant deprivation; and (6) the interests of state and local authorities in managing their own affairs is not usurped by the proposed tax, consistent with the Constitution.

Finally, the bill specifies that the judicial tax provisions will apply to any action or proceeding pending on, or commenced on or after, the date of enactment. This was done at the behest of Representative Don Manzullo of Illinois, whose district is home to Rockford, a city which is subject to a court taxation order that has devastated local communities.

REASSIGNMENT OF CASES

The fifth reform contained in this bill was also developed by Representative Canady. It allows all parties on one side of a civil case brought in federal District court to agree, after initial assignment to a judge, to bring a motion requiring that the case be reassigned to a different judge. Each side of the case may exercise this option only once. Under the provision, a motion to reassign must be made not later than 20 days after the notice of original assignment of the case is given.

Because some critics believe the reassignment device might encourage forum-shopping and attendant delay, its application will be limited to the 21 largest federal judicial districts (each containing over 10 judges to allow a random reassignment) over a five-year period, thereby allowing Congress to evaluate its effects and to determine whether it ought to be extended to all districts and perpetuated in the future.

This substitution-of-judge, or, as referred to in the bill, ''reassignment-of-case-as-of-right,'' provision mirrors similar state laws and allows litigants on both sides of a case to avoid being subjected to a particular federal judge, appointed for life, in any specific case. It might be used by litigants in a community to avoid ''forum shopping'' by the other side in a case, or to avoid a judge who is known to engage in improper courtroom behavior, who is known to be prejudiced, or who regularly exceeds judicial authority.

This provision is not meant to replace appellate review of trial judges' decisions, but rather to complement appellate review by encouraging judges to fairly administer their oaths of office to uphold the Constitution. Many judges face constant reversals on appeal, but still force litigants to bear extraordinary costs before them and further bear the burden of overcoming standards of review on appeal. This provision allows litigants some freedom in ensuring that due process will be given to their case before they bear the costs associated with litigating in trial court and will encourage the judiciary to be as impartial as required by their charge.

HANDLING OF CAPITAL PUNISHMENT APPEALS

The sixth reform set forth in H.R. 1252 was developed in response to the May 14, 1997, testimony of Charlotte Stout, who participated in an oversight hearing on judicial misconduct, and comments made by Representative William Delahunt of Massachusetts. Ms. Stout's daughter was raped and murdered by a man who sat on death row for 18 years as a result of filing numerous habeas petitions at the state and federal level. His federal petition was handled by a judge who delayed its consideration for four years before ordering a new trial. This same judge handles all habeas petitions in that judicial circuit, and has delayed consideration of all capital cases appealed to that circuit by a minimum of 65 years. All cases on which he has reached a final decision have resulted in an over-turning of a jury verdict to impose execution. In effect, this judge has taken it upon himself to usurp the decision of a jury to impose the death penalty. Pursuant to the bill, the chief judge of a circuit could neither handle all habeas cases by himself or herself, nor delegate the responsibility on an exclusive basis to another judge.

CAMERAS IN THE COURTROOM

A seventh reform would permit a presiding judge, in his or her discretion, to permit the use of cameras during federal appellate proceedings. Based on legislation introduced by Representative Steve Chabot of Ohio, the change mirrors state efforts to provide greater public access to the workings of the judiciary. The Committee on the Judiciary also adopted an amendment offered by Representative Chabot which creates a three-year pilot program allowing televised proceedings in any U.S. District (trial-level) proceeding, subject to the discretion of the presiding judge.

JUDICIAL PAY

An eighth reform includes parts of legislation introduced by Representative Henry Hyde of Illinois, Chairman of the Committee on the Judiciary, that would grant federal judges an annual cost-of-living adjustment unless Congress takes action to the contrary.

COMPLEX DISASTER LITIGATION

With Representative Jim Sensenbrenner of Wisconsin as its chief advocate, a ninth reform consists of language which the House passed in the 101st and 102nd Congress, and which the full Committee on the Judiciary passed in the 103rd Congress. This language is intended to improve the ability of federal courts to handle complex multidistrict litigation arising from a single accident, such as a plane crash.

Briefly, these changes would bestow original jurisdiction on federal District courts in civil actions involving minimal diversity jurisdiction among adverse parties based on a single accident where at least 25 persons have either died or sustained injuries exceeding $50,000 per person. The District court in which such cases are consolidated would retain those cases for purposes of determining liability and punitive damages, and would also determine the substantive law that would apply for findings of liability and damage. Returning individual cases to state and federal courts where they were originally filed for a determination of compensatory money damages (and where all relevant records are located) is fair to the plaintiffs or their estates.

These changes should reduce litigation costs as well as the likelihood of forum-shopping in airline and other accident cases. An effective one-time determination of punitive damages would eliminate multiple or inconsistent awards arising from multiforum litigation.

AGENCY (OPM) APPEALS OF ADVERSE PERSONNEL DECISIONS

The tenth and final reform of H.R. 1252, proposed by Representative Conyers of Michigan, would permit the Office of Personnel Management (OPM) to appeal final decisions of the Merit Systems Protection Board (MSPB) and final arbitral awards dealing with adverse personnel actions to the Federal Circuit within 60 days from the time

final notice of a decision is received. Currently, OPM must file its appellate briefs within 30 days, which is half the time allotted to other federal agencies.

This bill is limited in scope. It reforms the procedures of the federal courts to ensure fairness in the hearing of cases without stripping jurisdiction, or reclaiming any powers granted by Congress to the lower courts. It does assure that litigants in federal courts will be entitled to fair rules of practice and procedure leading to the due process of claims.

Mr. FRANK of Massachusetts. Mr. Chairman, I reserve the balance of my time.

Mr. COBLE. Mr. Chairman, I yield 5½ minutes to the distinguished gentleman from Texas (Mr. DELAY), the majority whip for the House.

Mr. DELAY. Mr. Chairman, I thank the Chairman for yielding. I want to commend the chairman of the subcommittee and the chairman of the full committee and the Members of the Committee on the Judiciary for their very hard work and effort in what I consider a much needed piece of legislation.

The system of checks and balances so carefully crafted by our Founding Fathers is in serious disrepair and has been for years. This bill takes a very necessary step to bring the courts back into constitutional order.

The Founding Fathers established a system of government in the United States that does not allow one branch to become too powerful at the expense of the other. I contend, quite frankly, if we read the Constitution as it originally was written and intended, the judiciary branch was supposed to be the weakest branch of the three created by the Constitution.

Contrary to the opinion of the liberal legal establishment of this country, judicial power is not limitless. Judicial power does not equal legislative power. Judges apply the law. They are not to make the law. When judges go further and unilaterally impose legislative remedies, they exceed the legitimate limits of power given to them by the Constitution.

When judges legislate, they usurp the power of Congress. When judges stray beyond the Constitution, they usurp the power of the people. For instance, under the Constitution, only Congress can lay and collect taxes. But that did not stop District Judge Russell Clark from ordering tax increases from the bench.

That tax increase, and 2 billion tax dollars, turned the city school district into a spending orgy, complete with editing and animation labs, greenhouses, temperature-controlled art galleries, and a model United Nations that was wired for language translation. If that is not taxation without representation, I do not know what it is.

Another example of a judge tossing aside the Constitution and supplanting his own personal biases was the decision of the District Court Judge, Thelton Henderson, prohibiting the State of California from implementing the California Civil Rights Initiative, the CCRI.

The CCRI simply removed the opportunity for State officials to judge people by their race and their sex, a practice that I think most Americans consider repugnant. In a ruling that turned common sense and our Constitution on its head, Justice Henderson ruled that by adopting the equal protection clause of the 14th amendment, the voters of the State of California had violated that same 14th amendment.

Although judicial taxation and Judge Henderson's circumvention of the Constitution are two extreme examples of judges breaching the separation of powers, there are, of course, many, many others.

Judges have created the right to die. Judges have prohibited States from declaring English as an official language. Judges have extended the right of States to withhold taxpayer-funded services from illegal aliens, all without sound constitutional basis.

Now, some Federal judges have even made themselves the sovereigns of the cell blocks, micromanaging our State prisons, and forcing changes in prison operations that have resulted in the early release each year of literally hundreds of thousands of violent and/or repeat criminals out on our streets and the streets to plague our families.

In 1970, not a single prison system was operating under the sweeping court orders common today. By 1990, some 508 municipalities, and over 1,200 State prisons were operating under some judicial confinement order or some consent decree.

In New York City, judges have forced prison officials to require that only licensed barbers cut the hair of the prisoners; that sweetened coffee may never be served at meals for the prisoners; and a court-appointed monitor must be given a city car within one grade of the prison commissioner's car. If it were not so appalling, it would be funny.

But if that is not enough, the same activist judges have also imposed prison caps, mandating the release of violent felons and drug dealers before they have even served their time.

Later today, the gentleman from Pennsylvania (Mr. MURTHA) and I will offer an amendment that will end this travesty of justice caused by overactive judges. Our amendment will prohibit a Federal judge from ever releasing a felon from prison because of claims of prison overcrowding.

The prisoners claim of overcrowding has become a get-out-of-jail-free card. And we say no longer. No longer will these prisoners plague our families, and our cities, and in our towns.

I urge my colleagues to support the Hyde bill and the DeLay-Murtha amendment. The time has come to reestablish our system of checks and balances and to restore sanity to our criminal justice system.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield such time as he may consume to the gentleman from Michigan (Mr. CONYERS), the ranking member of the full committee.

Mr. CONYERS. Mr. Chairman, I thank the gentleman from Massachusetts for yielding to me.

Mr. Chairman, I was delighted to hear the majority whip, constitutional expert in his own right, whose opinions I respect very much, and which will become very much in focus today. The gentleman from Texas (Mr. DELAY), majority whip, is the same Member of Congress who claims it is time we impeach judges whose opinions consistently ignore their constitutional role, violate their oath of office, and breach the separation of powers.

☐ 1115

That is a quote.

Mr. DELAY. Mr. Chairman, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from Texas.

Mr. DELAY. Does the gentleman believe that a judge should not be impeached that violates his oath of office and violates the Constitution?

Mr. CONYERS. I will get to that later. Right now I am making my own presentation, and I wanted to make sure I am quoting the gentleman correctly.

Mr. DELAY. Will the gentleman yield?

Mr. CONYERS. I yield to the gentleman, yes.

Mr. DELAY. The gentleman from Michigan is absolutely quoting me correctly.

Mr. CONYERS. All right, that is all I need. The majority whip should use his own time.

Now let me ask the majority whip, who is enjoying this as much as I am, ''Do you have any judges in mind since you made that statement a few months ago or do you plan to do anything about your pronouncements on that subject?''

Mr. DELAY. Mr. Chairman, will the gentleman yield?

Mr. CONYERS. With pleasure.

Mr. DELAY. I got a list and it is growing, yes, sir.

Mr. CONYERS. The gentleman from Texas got a list and it is growing.

Well, does the gentleman plan to ever do anything with the list, though? That is the point, and I yield again.

Mr. DELAY. I will be glad to consult with the gentleman when I have a candidate that has violated his oath of office and the Constitution.

Mr. CONYERS. Okay. Then that means up to now the gentleman does not have a candidate but he has got a list.

Mr. DELAY. Will the gentleman yield?

Mr. CONYERS. Yes, sir.

Mr. DELAY. I thought the list of candidates is what I was referring to. I have got plenty of candidates, yes. I am just looking for one that is particularly bad in violating the Constitution and his oath of office, yes.

Mr. CONYERS. I get it. Then the gentleman does not have a candidate right now. He has got a list. And I am not yielding any more. The gentleman from Texas can get time. I got a way for him to get as much time as he wants, but it is on the other side on his own time.

Okay.

Mr. DELAHUNT. Mr. Chairman, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from Massachusetts.

Mr. DELAHUNT. If the gentleman would inquire of the majority whip to give us the names on that particular list.

Mr. CONYERS. No, I am not going to go there. I am not going to go there. He has got a list and he is working on it, but he does not have a name yet so I got to wait. Said just stay tuned and he is going to make his presentation when the time comes.

Mr. DELAHUNT. Will the gentleman continue to yield? Could he reveal to us the number of candidates that are on it?

Mr. CONYERS. I am not going to go there, either. Maybe he will tell us today, maybe he will not. Maybe he will come up with a list next month. Who knows? That is what he is telling me.

Well, now, ''Congressional Republicans yesterday rallied,'' this is the great Washington newspaper, the Washington Times, ''Congressional Republicans yesterday rallied behind House Majority Whip Tom DeLay's announcement that the GOP will pursue impeachment proceedings against activist Federal judges.''

Now I would like to gain the distinguished majority whip's attention again. Excuse me, sir, if I may gain your attention again.

Mr. DELAY. Is the gentleman going to yield to me now?

Mr. CONYERS. Just a moment. I just want to gain the gentleman's attention first. Okay. I thank the gentleman. ''Congressional Republicans yesterday rallied behind House Majority Whip Tom DeLay's announcement that the GOP will pursue impeachment proceedings against activist Federal judges.''

And I will be happy to yield to the gentleman. What generally is his description of activist Federal judges?

Mr. DELAY. Mr. Chairman, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from Texas.

Mr. DELAY. I appreciate the gentleman giving me this opportunity.

Mr. CONYERS. It is a pleasure.

Mr. DELAY. First of all, I did not write that.

Mr. CONYERS. I know the gentleman did not.

Mr. DELAY. I am not looking to impeach activist judges. What I am looking for are judges that violate their oath of office and judges that violate the Constitution of the United States.

Mr. CONYERS. Okay. Then the Washington Times is wrong again, and to the extent that they are incorrect I apologize for bringing it to the gentleman's attention.

Mr. DELAY. Will the gentleman yield again?

Mr. CONYERS. I yield to the gentleman from Texas.

Mr. DELAY. They just used the wrong word.

Mr. CONYERS. I see. What word should they have used?

Mr. DELAY. Judges that violate the Constitution and their oath of office.

Mr. CONYERS. So this is not about activist judges. Okay. Well we are getting someplace.

Now here is the problem with this bill. There was a section in H.R. 1252 granting parties in the 21 largest Federal districts the right to peremptorily challenge a Federal judge's right to hear a civil action. In effect, listen carefully, Republican Members of this House, in effect this provision permits prejudicial challenges based on the race or gender of the judge.

Now, current law already provides a clear and coherent statutory regime for removing judges in appropriate circumstances, and it has been working pretty well all these years. But now today, 1998, we get a proposal in this bill that goes well beyond removing judges for cause and allows the parties to remove judges for no stated reason whatsoever, no stated reason whatsoever.

This is what the Republican lawyers on the House Committee on the Judiciary propose we do to the Federal courts today, for no reason, any reason. These are lawyers on the Committee on the Judiciary seriously proposing that that is what we do, and I say that is wrong.

In addition, these challenges would not require the exercising party to make any showing or even any allegation of bias on the part of the judge. In other words, ''I don't like that judge, let's get another judge.'' Does the gentleman know what that would do to the judicial process in the Federal system? Every judge that walks into every court where he is assigned, a judge, any party that does not like the judge, they get another one. And they go there and they get another one. They do not like the next one, someone else objects.

And this is a serious proposal, my colleagues. I think we ought to take a good look at this and find out just what is fueling this desire to allow every lawyer that comes into Federal court to forum shop. I do not think it is proper, and I do not think that it ought to be in the law. The judges are not too thrilled about it either. The delay would be incredible, and the Judicial Conference is a little bit exercised, as my colleague can believe.

A preemptive challenge would be devastating of this kind. All the expertise that a judge acquired regarding the cases developed over many months would be lost. New judges would have to educate themselves regarding the attendant cases, with delay and expense.

And so we are asking that this provision be stricken from the bill. We hope that a lot of Members, lawyers and constitutional experts and Members that do not make that claim, will join us in opposing this section of the bill.

Mr. COBLE. Mr. Chairman, I yield 2 minutes to the gentlewoman from California (Mrs. BONO).

(Mrs. BONO asked and was given permission to revise and extend her remarks.)

Mrs. BONO. Mr. Chairman, as one of the newest Members of the 105th Congress, I want to express what a privilege it is to arrive at this great institution and participate during these important debates.

As one of my first official acts I am very proud to rise today to support the bill under consideration, the Judicial Reform Act of 1997. This is a very good bill, and among its important provisions is one of special significance to the voters of my district, of my State and to myself. Section 2 of the bill reflects the bill, H.R. 1170, which was my late husband's first piece of legislation in Congress and which passed this House last Congress. This is a simple but long overdue measure that will protect the franchise of democracy.

This provision, as my colleagues already know, establishes a three-judge panel to review the constitutionality of voter-passed initiatives. When a single Federal judge can block the will of the people for years at a time, that is one of the most antidemocratic features of our legal system. For the voters of California and other States that have initiatives, justice is delayed, and thus it is denied.

Quickly I want to spell out three reasons why the three-judge panel provision should be passed by the House today. This is a commonsense idea; it will make the Federal courts more objective in the way they review cases arising from a vote of the people.

This is a mainstream idea. This measure was part of the American legal system for years, and in my view we are bringing back something that has an important role in protecting our democratic system. Every Member knows that the three-judge panels are used today in voting rights and apportionment cases.

And, finally, this is a bipartisan idea. The three-judge panel bill, H.R. 1170, was supported by an overwhelming and bipartisan vote of this body in the last Congress. The bill we are considering today also contains provisions that Republicans and Democrats should unite to support.

In closing, I want to commend the gentleman from Illinois (Mr. HYDE) and the gentleman from North Carolina (Mr. COBLE) for their hard work in bringing this excellent bill to the floor. Again, I ask every Member to support this provision and pass this bill.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield 2 minutes to the gentlewoman from California (Ms. WATERS), a member of the committee.

(Ms. WATERS asked and was given permission to revise and extend her remarks.)

Ms. WATERS. Mr. Chairman, I rise in opposition to this odious bill. This bill may as well be called the anti-Thelton Henderson bill. Republicans got upset with one Federal district judge's decision regarding proposition 209, and now they want to change the whole judicial process. These changes would make it possible to pick and choose with no justification. Thus, black judges, Latino judges, women judges would be challenged simply because of their color.

The changes they propose are outrageous. They want to make it easy for racist and sexist judges to hear cases in civil actions. They want the Reagan-Bush appointed court of appeals judges to control the decisions about the constitutionality of State referenda issues. They want to restrict Federal district courts from enforcing rights laws if there are any fines involved.

Now, after proposing all of that, the Republicans dangle the cameras in the courtroom provision as if to make a concession. Well, I am not falling for it. Now I wholly support the opening up of the judiciary. Cameras would help the public understand the justice system. But I will not sacrifice the integrity of the entire Federal judiciary for one good provision.

This bill is unconscionable and unconstitutional. Tampering with the Federal justice system to get back at one judge's decision is petty and dangerous, and shame on my colleagues for pushing this bill, shame on all of us if we vote for it.

I strongly urge a vote of ''no'' on H.R. 1252.

Mr. COBLE. Mr. Chairman, I yield 2 minutes to the gentleman from Tennessee (Mr. BRYANT), a member of the Committee on the Judiciary.

Mr. BRYANT. Mr. Chairman, this legislation before us was created after a number of judges across this country have began taking away rights and liberties in many of the cases before them, and the portion of this bill that I strongly support and actually authored has an impact in this situation when it comes to filing ethical complaints against judges by people who feel that they have been wrongfully treated in those courtrooms. And what it does, it removes the issue of appearance of conflict of interest, possible bias and favoritism in the review of these ethical complaints against the judges now presently done by that judge's own colleagues.

□ 1130

The process is once a complaint is filed, it is given to the clerk of the circuit court, who then passes it on to the chief judge.

My proposal allows this chief judge to ferret out, to eliminate those frivolous claims, and those claims that are based on the judge's ruling itself, which is not proper, or those incomplete complaints. But once he finds there is some merit to a complaint against a judge, rather than allow, as I said before, the judge's own colleagues within that circuit court to determine whether or not that judge is guilty of an ethical violation, I simply ask the courts to allow that to be moved over to another circuit, to other judges, who perhaps do not know that judge as well.

What that simply does is allow the person who filed that complaint, the citizen, to have a fair hearing of that complaint against the judge, without the appearance of a conflict of interest, without the appearance of favoritism by colleagues. Whether that exists or not, at a minimum, the appearance exists.

It is a question of freedom and fairness. This legislation would protect those filing such a grievance, such a complaint, and allow it to be heard by judges who do not have that friendship or who do not have that working relationship with the judge under issue.

Mr. Chairman, I close by simply urging my colleagues to support this bill. It is a very good bill.

Mr. COBLE. Mr. Chairman, I yield 2 minutes to the gentleman from Arkansas (Mr. HUTCHINSON), a member of the Committee on the Judiciary.

Mr. HUTCHINSON. Mr. Chairman, I thank the gentleman for yielding me time. I appreciate the leadership of the gentleman on this important issue.

Mr. Chairman, I rise in support of H.R. 1252, the Judicial Reform Act, and want to speak about two provisions of the bill.

The first one is one long-championed by our former colleague, Sonny Bono, which ensures that the will of millions of voters is not overturned by a single Federal judge. Of course, the illustration was given in the State of California, but that can be duplicated in Arkansas, in which the initiative petition drive alternative of the voters is utilized quite frequently.

Whenever we have a ballot initiative that is passed by the voters, I think it is wrong to have that potentially overturned by one single Federal judge. I believe the three-judge panel is a better procedure because it preserves the right of judicial review, which I believe in. Yet at the same time it ensures it is not going to be passed on the whim of one Federal judge, but would at least require three to review and act upon what the voters of a particular State have done, and it would be a due regard for the Constitution of the United States.

The second thing that I believe is important in this provision is the section that prohibits Federal judges from levying taxes on localities or municipalities as part of a settlement or a court ruling.

Mr. Chairman, I believe that our constituents are probably wondering why we are even debating this, because the Constitution gives Congress the sole authority to impose taxes on the citizens. Because of what has happened in one particular case in Missouri, there is the fear that it could happen again. So this kind of judicial activism is, indeed, considered an outrage by the American public, and this legislation will ensure it does not happen again in our localities.

So I believe that this is appropriate. It is responsible legislation; it has a good balance between the judicial review that is appropriate for judges to maintain, but yet we in this Congress are sworn to uphold the Constitution of the United States as well.

I believe that this legislation is in line with our constitutional authority, and I would ask my colleagues to support it.

Mr. COBLE. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio (Mr. CHABOT), a member of the Committee on the Judiciary.

Mr. CHABOT. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I rise in support of the Judicial Reform Act. As my colleagues know, this legislation contains language authored by the gentleman from New York (Mr. SCHUMER) and myself that would permit Federal judges in appropriate situations to allow the televising of civil and criminal trials or appeals. Again, it would permit it, but it would not require cameras in the courtroom. It is at the discretion of the trial judge.

Open, public trials have a longstanding tradition in our country. The framers of the Constitution required public trials because they recognized that a thriving democracy depends on a well-informed public. They knew that the public needs to see how an important branch of the Federal Government works, or, in some cases, does not work, and they understood that the dignity of the court comes from the courtroom itself and from the values and beliefs on display.

Those values and beliefs are invigorated, not undercut, as opponents of open government would argue, by giving the people the ability to see our judicial system in action.

Chief Justice Berger, for example, once wrote, ''People in an open society do not demand infallibility from their institutions, but it is difficult for them to accept what they are prohibited from observing.''

An informed citizenry also is essential to our constitutional system of checks and balances. The Federal courts play a very important part in our government. Federal judges, after all, serve for life. The American people deserve the opportunity to see how they operate. We need to encourage deeper understanding and further national discussion of the proper and properly limited role of the Federal judges.

In an age where new technological breakthroughs are made every day and televisions are present in virtually every American home, it is inconceivable that access to the courts would be

strictly limited to those Americans who have the time and ability to personally visit a courthouse.

Our Founding Fathers over 200 years ago wanted our Federal courts to be open, and they are open. But who has the time nowadays to take off of work or to take away from the time in raising their families to go down to the Federal courts, which are generally downtown? They should have the ability to view what is going on in those courtrooms at home. After all, those courts do not belong to the judges; they belong to the people.

Mr. Chairman, I urge passage of this bill.

Mr. FRANK of Massachusetts. Mr. Chairman, to close for us, I yield the balance of my time to the gentleman from North Carolina (Mr. WATT).

The CHAIRMAN pro tempore (Mr. EWING). The gentleman from North Carolina is recognized for 8 minutes.

Mr. WATT of North Carolina. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I actually had tried to restrain myself from taking time in general debate on this bill because I had very, very mixed emotions throughout this debate.

I had the pleasure of practicing, sometimes the pain, of practicing law for 22 years before I was elected to Congress. There have been many, many times during that 22 years that I would have longed for the opportunity to be given the right to strike a judge and select another judge.

There have been many times during that 22 years that I was on the verge of losing confidence in a process, and had to step back from it and evaluate the process that was there in our court system, and try to say to myself, how would I do this differently if I were designing a court system?

So, in a sense, I guess I can empathize with my Republican colleagues who would like to make a substantial change in our judicial system because they have a sense of frustration about some aspect of it.

There is probably not another person in this body, if there are, there are probably only a few, who have had a judge look at them or their law partners and call them a ''nigger'' in the courtroom. I would love to have had the opportunity to strike that judge and go on to another judge.

There is probably nobody who has, as much as I, been involved in a system that had a three-judge panel, and recognized the benefits and detriments of having a three-judge panel in litigation.

But when all is said and done, what we have to recognize is that we operate in a system that is unique to our country. I am in the majority a lot in this House, but I cannot start changing every rule that sometimes cuts in my favor and sometimes cuts against me. There has to be a set of rules that govern any kind of organized system, and our court system has a set of rules that govern it.

So while I have experienced that frustration that some of my colleagues have talked about, what I have said to myself over and over and over again is that our system has to be protected. Otherwise, there is no rule of law; there can be no justice. We substantially undercut it when we start selectively trying to take some result and change it by changing the whole process under which we operate.

That is what this bill does in substantial measure. It gives every citizen the opportunity to come in and say, I don't like this judge because I don't like what color he is or what gender she is or what political perspective they have, and therefore I am going to exercise a peremptory challenge, just like we do in a jury pool.

That is an unprecedented change in our system. One, which I would have loved to have had on many occasions, but I have understood would undermine the system of justice that we have substantially in our country.

Yet, my colleagues would come in here and whine and say I don't like the result, therefore I am going to change the whole system and give everybody in America the right to delay trials and subvert the system. This, my friends, is not a good bill.

It may have some superficially appealing aspects to it, some which I can understand and empathize with, but we must protect the system of justice and the rules of the road, and we cannot start making them subject to who is in power in the Congress of the United States and whether it is Conservatives versus Liberals. We must have rules under which we operate.

Once we undermine those rules, as this bill does substantially, then we have undermined our whole system of justice in this country.

So I beg my colleagues on both sides of the aisle to evaluate this bill and see if this really is where they want to be. It may serve some short-term political objective that they have, but what does it do to the confidence of the public in our judiciary and in our judicial system?

□ 1145

At the end of the day, after my colleagues have made that kind of evaluation, I believe, if they are acting in the interests of justice and the integrity of our system, they will reject this bill so that we can have a reasonable set of rules that have governed our system for years and years and years and do not delay the trial of cases in our system.

I ask my colleagues to vote against this bill, even though it may have some political, superficial benefit to them.

Mr. COBLE. Mr. Chairman, I yield 3 minutes to the gentleman from Illinois (Mr. MANZULLO).

Mr. MANZULLO. Mr. Chairman, if there is any phrase that sums up the reason for the existence of this Republic, that phrase is ''no taxation without representation.'' That is not the phrase of DON MANZULLO. It is the phrase of Thomas Jefferson, who, when he wrote the Declaration of Independence, cited King George for three things: that King George, III, refused to pass laws that would allow people the right to be represented in their own legislatures; that he called together legislative bodies at unusual times so nothing could be done; that he imposed taxes on us without our consent.

Taxation without consent gave rise to the Boston Tea Party, and it gave rise to the Constitution that was written in 1787, a document so magnificent that author Flexner has said, never before in history had people gathered together to write a document by which people can govern themselves.

Two of the people who had a tremendous impact on that Constitution were Hamilton and Madison. Hamilton said, in Federalist Paper 78, ''The judiciary has no influence over either the sword or the purse, no direction either of the strength or of the wealth of the society.''

And Madison said in Federalist Paper 33, ''What is a power but the ability or faculty of doing a thing? What is the power of laying and collecting taxes but a legislative power?''

And so powerful were those words, Mr. Chairman, that they were written into article 1, section 7, that said, ''All bills for raising revenue shall originate in the House of Representatives.'' It is very clear, any Federal attempt to raise taxes must come in the people's House, and it must come by people who have to stand for reelection every 2 years.

But history has not proved that out, because it is not only in Kansas City, Missouri, where the judge has raised $2 billion worth of taxes, but it is in Rockford, Illinois, where an unelected magistrate ordered the members of the school board to either raise taxes or go to jail for the purpose of implementing a desegregation plan.

That is taxation without representation, and that is why we are here today, because Madison compelled it whenever one branch of government would become predominant over the other. In fact, in number 47 he said, ''The accumulation of all powers, legislative, executive, and judiciary, in the same hands, whether of one, a few, or many, and whether hereditary, self-appointed, or elective, may justly be pronounced the very definition of tyranny.''

We are here, perhaps for the first time since the Constitution was adopted, perhaps for the first time that the House of Representatives has been here in existence, for the first time in history, to argue Congress should take back from the judges the power to tax.

Mr. BERMAN. Mr. Chairman, I rise in opposition to H.R. 1252. There are many in this chamber who from time to time have disagreed with decisions rendered by federal judges. Count me among them. But I have always felt that our independent life-tenured federal judiciary is one of the glories of the American system of government, and that efforts by

the Congress to retaliate against particular decisions are inimical to our larger stake in the preservation of the American constitutional system.

That is why I am so strongly opposed to H.R. 1252. It is simply wrong to manipulate court jurisdiction and procedure as this bill would do to try to make it more or less likely that the federal courts will reach particular results.

I am particularly concerned that H.R. 1252 seeks to strip the remedial power of the federal courts, to the detriment of all Americans. By prohibiting a federal district court from entering any order or approving any settlement that could require a state or local government to raise taxes—and applying this provision to pending cases, to boot—the bill deprives all Americans of effective recourse for the vindication of their rights under federal law. As critics have noted, *Brown v. Board of Education* required expenditures to desegregate the public schools. Would the proponents of this bill suggest that the authority of the federal courts should have been limited to declaring segregation unconstitutional, and the courts barred from ordering desegregation?

And on the very week that we celebrate Earth Day, please do not tell me that we are going to deprive the federal judiciary of the ability to effectively enforce the nation's environmental laws. For all these reasons, I urge support for the amendment to be offered by our colleagues Mr. DELAHUNT and Mr. BOEHLERT to strike Section 5 of the bill.

I also note with great concern that Section 6 of the bill would grant parties in federal court the right to remove the judge randomly assigned to their case. Because due process guarantees an impartial judge, under current law a party can seek to remove a judge for bias or prejudice. But to go further and allow peremptory strikes is to ''replace the traditional process with a dangerous alternative. * * * We would be wrong to buy into a proposed reform whose basic effect is to influence judges through considerations extrinsic to the merits of a case.'' That is the analysis of the eminent Chief Judge of the 4th Circuit, J. Harvie Wilkinson, widely viewed as a conservative Republican jurist. Why would we seek to introduce strategic judge-shopping based on a judge's race, gender, or experience before taking the bench, into what is now the impeccably random assignment of judges to cases, and in so doing risk chilling decisionmaking in difficult cases?

I am heartened that my neighbor and colleague form California, Mr. ROGAN, will join in seeking to strike Section 6 later today. In light of his experience as a judge, I hope my colleagues will carefully consider the concerns which prompt him to offer his amendment.

I also want to make note of Section 2 of the bill, which would bring back into federal judicial practice a mechanism largely discarded by Congress in 1976 as inefficient and unwieldy, namely three judge panels in the district court. Section 2 would require a three judge court in all cases involving constitutional challenges to state referenda and initiatives. The authority of the federal judiciary to hear and decide constitutional questions, including challenges to state laws, should not turn on whether the challenged law was enacted by a state legislature or by a state's voters. Indeed, Section 2 would create the anomalous result that identical laws adopted by two different states would be treated completely differently by the federal courts. Because appeals of decisions of three judge courts are heard on an expedited basis by the Supreme Court without the benefit of circuit court review, the laws of those states where the referendum and initiative processes do not exist could be placed at a disadvantage. Why would we do that?

In all of these instances, I believe the legislation before us threatens the independence of the federal judiciary and imposes increased delays and costs for our constituents who seek recourse in the federal courts. This legislation endangers the balance among the branches of government so carefully wrought by the Founding Fathers and threatens the vindication of our constitutional rights. I urge its defeat.

Mr. PACKARD. Mr. Chairman, today we will consider the Judicial Reform Act, a piece of legislation that will curb judicial activism by restraining judges who use their authority to advance political agenda rather than uphold the laws set forth in the Constitution. As it stands now, federal, district and circuit court judges yield an enormous amount of power, and yet are accountable to no one. They are not elected, but are appointed for life.

Judicial activism has taken its hold throughout the country. Recently, a federal judge in California declared State proposition 187 unconstitutional, succumbing to political pressures rather than preserving the liberties of law-abiding citizens. Now illegal immigrants will enjoy public benefits at the expense of American taxpayers. Proposition 187 was a ballot initiative that was studied and passed by voters in California. One individual had the power to overturn a statute that was agreed upon by a majority of the electorate. Mr. Speaker, this is not democratic and it is far from constitutional!

The Judicial Reform Act will restrict judges who practice judicial activism, designating a panel of judges to review U.S. district court decisions when they may be perceived as unconstitutional. Establishing new rules is the only way to halt this growing problem. Mr. Speaker, I urge my colleagues to take a closer look at how judicial activism is negatively impacting their constituents and to support the Judicial Reform Act.

Mr. TANNER. Mr. Chairman, I rise today to bring to the attention of my colleagues a particular provision of H.R. 1252—section seven: random assignment of habeas corpus cases.

This section was added to the bill as a result of the testimony of one of my constituents, Mrs. Charlotte Stout of Greenfield, Tennessee. I'd like to submit the testimony of Mrs. Stout for the record since I can't hope to duplicate her eloquent effort.

Before I begin, let me first say that I understand the difficulty facing this House in that judicial independence is a cornerstone of our democracy; but independence does not mean that we as a co-equal branch of government abdicate all responsibility for seeing that justice is done in this country. This House has heard all to often that justice delayed is justice denied. This is yet another unfortunate incident where this valid statement applies. I believe we do have a solemn duty to respond to injustice whenever and wherever we can.

This section is a response to an injustice and I commend Chairman COBLE and his staff for working diligently with me and Mr. DELAHUNT to add this important provision.

The story of Charlotte Stout's daughter, Cary Ann Medlin is one which is too gruesome and too cruel to recount fully and I won't further their suffering by a detailed account—neither would Charlotte want me to. She is not an avenging mother, but a compassionate concerned woman who wants justice for not only herself, but all victims of crime.

On September 1, 1979 her daughter Cary Ann Medlin, age 9, went out to ride her bicycle for a few minutes before dinner. Charlotte never saw her alive again. A man, by his own confession, brutally raped, sodomized, and murdered her small child. This man was brought to trial in 1981 and sentenced to two life sentences and death by electrocution. This case was appealed in all the appropriate state courts.

In 1992 this killer, filed his second petition for habeas corpus relief in the federal court. In December of 1996, after being reprimanded for delay by the chief judge of the district, the judge finally ruled on this case after having it in his court for 4 years and 10 months.

While this one woman's ordeal through the federal court system has made the constituents of my district question our judicial system and rightly so, Charlotte did not come to Washington to testify about an isolated, single case.

This federal judge in the middle district of Tennessee, after very lengthy delays, has overturned 100% of all death penalty cases on which he has reached a final decision. Five to ten years is the norm in this judges court and in my view this is unacceptable. This judge delayed eight capital cases a combined total of over 66 years.

The citizens of Tennessee are concerned that since the reinstatement of the death penalty in 1977, this judge has received almost 100% of the cases prior to 1990. He did not transfer the cases back to the district of origin, nor did he recuse himself in hearing the cases. The lengthy and constant delays in these capital cases has resulted in the victims of crime being denied justice. That is wrong; that is an injustice; and I support this section as a minor response to a grave injustice which if left unchecked could threaten the very credibility of the judiciary.

Again, I thank the Subcommittee for hearing the testimony of Mrs. Charlotte Stout from Greenfield, Tennessee and the mother of Cary Ann Medlin.

HOUSE SUBCOMMITTEE ON COURTS AND INTELLECTUAL PROPERTIES—SUMMARY OF WRITTEN TESTIMONY BY CHARLOTTE STOUT, MAY 15, 1997

I am not here today as an avenging mother. I am not here because a Federal Judge overturned one isolated death penalty case. If that were the case, you could discredit me as an emotional extremist and I would be wasting this committee's and my time. I represent almost 27,000 others who are concerned with and perceive a grave miscarriage of justice in Tennessee. The source of our concern is life-time appointed Federal Judge John Nixon of the Middle Tennessee District.

Judge Nixon has delayed eight counted death penalty cases a compiled total of 65 years and 7 months. He has then overturned 100% of all death penalty cases on which he has reached a final decision. If our concern stemmed from one isolated decision, then I would also call attention to Judge Morton of Middle Tennessee who has also overturned a death penalty case. Our concerns stems from several reasons, not just Judge Nixon's decision on one case. We are concerned with the

consistency with which Judge Nixon makes his decisions. We are concerned about the inordinate delays on death penalty cases in his court. We are concerned because of his misconduct in office by accepting an award from a group who has a previously stated controversial point of view on a legal issue. We are concerned with the amount of financial reimbursement he has authorized in capital cases. We are concerned that since the reinstatement of capital punishment in Tennessee in 1977, Judge Nixon received almost 100% of the cases prior to 1990. He did not transfer the cases back to the district of origin, nor did he recuse himself from hearing the cases. And finally, we are concerned about the system for filing judicial complaints. Twelve (12) complaints were officially filed against Judge Nixon in the 6th Circuit Court. These were reviewed by a judge who is his peer and social acquaintance.

From the Governor, (and past Governor) to the ''blue-collar'' workers, from East Tennessee to West Tennessee, thousands believe that Judge Nixon is opposed to capital punishment and is allowing his personal convictions to obstruct the law of the State of Tennessee. Tennessee Senate Joint Resolution 41 has been proposed by Senator Tommy Burks which is a resolution memorializing the U.S. Congress to initiate impeachment proceedings against U.S. District Court Judge John T. Nixon. We believe, Judge Nixon who is appointed for a life-time term, will continue to overturn death penalty convictions and order new trials, if he is allowed to continue in his historic path. I cannot begin to elaborate on the number of newspaper editorials, TV news segments, and public commentaries that have been expressed against Judge Nixon. A Federal Judge, who is appointed for life is holding the citizens of Tennessee ''hostage'' to his conscientious beliefs. He does have the right to his beliefs. No one disputes that. But when those beliefs interfere with the administration of justice and the performance of his duties as an officer of the court, he should be removed or at the very least restrained. Capital punishment has been ruled to be constitutionally appropriate. How then, can one individual be allowed to hold his beliefs above the law because he is a Federal Judge? He is frustrating the entire legal system in our state. To what purpose do our law enforcement officers, prosecuting attorneys, Judges and courts spend countless hours and taxpayer dollars to bring criminals to swift and sound justice. How can due process be served when delays of 10 years exist in one court? A fair trial after two decades will be impossible for any of these cases. What a tragedy if any one of these men is innocent. What a tragedy if they are guilty and allowed to abuse the system. What a tragedy if a Federal Judge is allowed flagrant misconduct in office and our elected Representatives refuse to act for the sake of protecting the independence of the judiciary. The framers of our Constitution surely never intended for one branch of the government to act completely independent of the other two branches. If that were the case, there would be no true system of checks and balances.

We realize that only 15 judges have ever been brought up on impeachment charges and only seven of them have been convicted and removed from the bench. We realize the grounds for impeachment are complex. The Constitution sets the framework for impeachment and defines an impeachable offense as ''High crimes or misdemeanors'' but also states that judges who have lifetime appointments must be of ''good behavior''. Our elected Representatives can define the parameters of good behavior. On April 9, 1996, Chief Justice of the U.S. Supreme Court William Rehnquist said to the Washington College of Law, ''It would be a mistake to think that just because a certain kind of judicial business has always been conducted in a particular way in the past, it therefore ought to be conducted that way in the future.''

We, the people, have only one voice, the voice of our elected Representatives.

The CHAIRMAN. All time has expired.

The amendment in the nature of a substitute printed in the bill, modified by striking section 9 and redesignating each succeeding section accordingly, shall be considered by sections as an original bill for the purpose of amendment. Pursuant to the rule, each section is considered as read.

During consideration of the bill for amendment, the Chair may accord priority in recognition to a Member offering an amendment that he has printed in the designated place in the CONGRESSIONAL RECORD. Those amendments will be considered as read.

The Chairman of the Committee of the Whole may postpone a request for a recorded vote on any amendment, and may reduce to a minimum of 5 minutes the time for voting on any postponed question that immediately follows another vote, provided that the time for voting on the first question shall be a minimum of 15 minutes.

The Clerk will designate section 1.

The text of section 1 is as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Judicial Reform Act of 1998''.

The CHAIRMAN. Are there any amendments to section 1?

Mr. COBLE. Mr. Chairman, I ask unanimous consent that the remainder of the amendment in the nature of a substitute, as modified, be printed in the RECORD and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The text of the remainder of the amendment in the nature of a substitute, as modified, is as follows:

SEC. 2. 3-JUDGE COURT FOR ANTICIPATORY RELIEF.

(a) REQUIREMENT OF 3-JUDGE COURT.—Any application for anticipatory relief against the enforcement, operation, or execution of a State law adopted by referendum shall not be granted by a United States district court or judge thereof upon the ground that the State law is repugnant to the Constitution, treaties, or laws of the United States unless the application for anticipatory relief is heard and determined by a court of 3 judges in accordance with section 2284 of title 28, United States Code. Any appeal of a determination on such application shall be to the Supreme Court. In any case to which this section applies, the additional judges who will serve on the 3-judge court shall be designated under section 2284(b)(1) of title 28, United States Code, as soon as practicable, and the court shall expedite the consideration of the application for anticipatory relief.

(b) DEFINITIONS.—As used in this section—

(1) the term ''State'' means each of the several States and the District of Columbia;

(2) the term ''State law'' means the constitution of a State, or any statute, rule, regulation, or other measure of a State that has the force of law, and any amendment thereto;

(3) the term ''referendum'' means the submission to popular vote, by the voters of the State, of a measure passed upon or proposed by a legislative body or by popular initiative; and

(4) the term ''anticipatory relief'' means an interlocutory or permanent injunction or a declaratory judgment.

(c) EFFECTIVE DATE.—This section applies to any application for anticipatory relief that is filed on or after the date of the enactment of this Act.

SEC. 3. INTERLOCUTORY APPEALS OF COURT ORDERS RELATING TO CLASS ACTIONS.

(a) INTERLOCUTORY APPEALS.—Section 1292(b) of title 28, United States Code, is amended—

(1) by inserting ''(1)'' after ''(b)''; and

(2) by adding at the end the following:

''(2) A party to an action in which the district court has made a determination of whether the action may be maintained as a class action may make application for appeal of that determination to the court of appeals which would have jurisdiction of an appeal of that action. The court of appeals may, in its discretion, permit the appeal to be taken from such determination if the application is made within 10 days after the entry of the court's determination relating to the class action. Application for an appeal under this paragraph shall not stay proceedings in the district court unless the district judge or the court of appeals or a judge thereof shall so order.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) applies to any action commenced on or after the date of the enactment of this Act.

SEC. 4. PROCEEDINGS ON COMPLAINTS AGAINST JUDICIAL CONDUCT.

(a) REFERRAL OF PROCEEDINGS TO ANOTHER JUDICIAL CIRCUIT OR COURT.—Section 372(c) of title 28, United States Code, is amended—

(1) in paragraph (1) by adding at the end the following: ''In the case of a complaint so identified, the chief judge shall notify the clerk of the court of appeals of the complaint, together with a brief statement of the facts underlying the complaint.'';

(2) in paragraph (2) in the second sentence by inserting ''or statement of facts underlying the complaint (as the case may be)'' after ''copy of the complaint'';

(3) in paragraph (3)—

(A) by inserting ''(A)'' after ''(3)'';

(B) by striking ''may—'' and all that follows through the end of subparagraph (B) and inserting the following: ''may dismiss the complaint if the chief judge finds it to be—

''(i) not in conformity with paragraph (1);

''(ii) directly related to the merits of a decision or procedural ruling; or

''(iii) frivolous.''; and

(C) by adding at the end the following:

''(B) If the chief judge does not enter an order under subparagraph (A), then the complaint or (in the case of a complaint identified under paragraph (1)) the statement of facts underlying the complaint shall be referred to the chief judge of another judicial circuit for proceedings under this subsection (hereafter in this subsection referred to as the 'chief judge'), in accordance with a system established by rule by the Judicial Conference, which prescribes the circuits to which the complaints will be referred. The Judicial Conference shall establish and submit to the Congress the system described in the preceding sentence not later than 180 days after the date of the enactment of the Judicial Reform Act of 1998.

''(C) After expeditiously reviewing the complaint, the chief judge may, by written order explaining the chief judge's reasons, conclude the proceeding if the chief judge finds that appropriate corrective action has been taken or that action on the complaint is no longer necessary because of intervening events.'';

(4) in paragraph (4)—

(A) by striking ''paragraph (3)'' and inserting ''paragraph (3)(C)''; and

(B) in subparagraph (A) by inserting ''(to which the complaint or statement of facts underlying the complaint is referred)'' after ''the circuit'';

(5) in paragraph (5)—

(A) in the first sentence by inserting ''to which the complaint or statement of facts underlying the complaint is referred'' after ''the circuit''; and

(B) in the second sentence by striking ''the circuit'' and inserting ''that circuit'';

(6) in the first sentence of paragraph (15) by inserting before the period at the end the following: ''in which the complaint was filed or identified under paragraph (1)''; and

(7) by amending paragraph (18) to read as follows:

''(18) The Judicial Conference shall prescribe rules, consistent with the preceding provisions of this subsection—

''(A) establishing procedures for the filing of complaints with respect to the conduct of any judge of the United States Court of Federal Claims, the Court of International Trade, or the Court of Appeals for the Federal Circuit, and for the investigation and resolution of such complaints; and

''(B) establishing a system for referring complaints filed with respect to the conduct of a judge of any such court to any of the first eleven judicial circuits or to another court for investigation and resolution.

The Judicial Conference shall establish and submit to the Congress the system described in subparagraph (B) not later than 180 days after the date of the enactment of the Judicial Reform Act of 1998.''.

(b) DISCLOSURE OF INFORMATION.—Section 372(c)(14) of title 28, United States Code, is amended—

(1) in subparagraph (B) by striking ''or'' after the semicolon;

(2) in subparagraph (C) by striking the period at the end and inserting ''; or''; and

(3) by adding after subparagraph (C) the following:

''(D) such disclosure is made to another agency or instrumentality of any governmental jurisdiction within or under the control the United States for a civil or criminal law enforcement activity authorized by law.''.

(c) EFFECTIVE DATE.—The amendments made by subsection (a) apply to complaints filed on or after the 180th day after the date of the enactment of this Act.

SEC. 5. LIMITATION ON COURT-IMPOSED TAXES.

(a) LIMITATION.—Chapter 85 of title 28, United States Code, is amended by adding at the end the following new section:

''§1369. Limitation on Federal court remedies

''(a) LIMITATION ON COURT-IMPOSED TAXES.—(1) No district court may enter any order or approve any settlement that requires any State, or political subdivision of a State, to impose, increase, levy, or assess any tax, unless the court finds by clear and convincing evidence, that—

''(A) there are no other means available to remedy the deprivation of a right under the Constitution of the United States;

''(B) the proposed imposition, increase, levying, or assessment is narrowly tailored to remedy the specific deprivation at issue so that the remedy imposed is directly related to the harm caused by the deprivation;

''(C) the tax will not contribute to or exacerbate the deprivation intended to be remedied;

''(D) plans submitted to the court by State and local authorities will not effectively redress the deprivations at issue;

''(E) the interests of State and local authorities in managing their affairs are not usurped, in violation of the Constitution, by the proposed imposition, increase, levying, or assessment; and

''(F) the proposed tax will not result in the loss or depreciation of property values of the taxpayers who are affected.

''(2) The limitation contained in paragraph (1) shall apply only to any order or settlement which—

''(A) expressly directs any State, or political subdivision of a State, to impose, increase, levy, or assess any tax; or

''(B) will necessarily require a State, or political subdivision of a State, to impose, increase, levy, or assess any tax.

''(3) If the court finds that the conditions set forth in paragraph (1) have been satisfied, it shall enter an order incorporating that finding, and that order shall be subject to immediate interlocutory de novo review.

''(4) A remedy permitted under paragraph (1) shall not extend beyond the case or controversy before the court.

''(5)(A) Notwithstanding any law or rule of procedure, any person or entity whose tax liability would be directly affected by the imposition of a tax under paragraph (1) shall have the right to intervene in any proceeding concerning the imposition of the tax, except that the court may deny intervention if it finds that the interest of that person or entity is adequately represented by existing parties.

''(B) A person or entity that intervenes pursuant to subparagraph (A) shall have the right to—

''(i) present evidence and appear before the court to present oral and written testimony; and

''(ii) appeal any finding required to be made by this section, or any other related action taken to impose, increase, levy, or assess the tax that is the subject of the intervention.

''(b) TERMINATION OF ORDERS.—Notwithstanding any law or rule of procedure, any order of, or settlement approved by, a district court requiring the imposition, increase, levy, or assessment of a tax pursuant to subsection (a)(1) shall automatically terminate or expire on the date that is—

''(1) 1 year after the date of the imposition of the tax; or

''(2) an earlier date, if the court determines that the deprivation of rights that is addressed by the order or settlement has been cured to the extent practicable.

Any new such order or settlement relating to the same issue is subject to all the requirements of this section.

''(c) PREEMPTION.—This section shall not be construed to preempt any law of a State or political subdivision thereof that imposes limitations on, or otherwise restricts the imposition of, a tax, levy, or assessment that is imposed in response to a court order or settlement referred to in subsection (b).

''(d) ADDITIONAL RESTRICTIONS ON COURT ACTION.—(1) Except as provided in paragraph (2), nothing in this section may be construed to allow a Federal court to, for the purpose of funding the administration of an order or settlement referred to in subsection (b), use funds acquired by a State or political subdivision thereof from a tax imposed by the State or political subdivision thereof.

''(2) Paragraph (1) does not apply to any tax, levy, or assessment that may, in accordance with applicable State or local law, be used to fund the actions of a State or political subdivision thereof in meeting the requirements of an order or settlement referred to in subsection (b).

''(e) NOTICE TO STATES.—The court shall provide written notice to a State or political subdivision thereof subject to an order or settlement referred to in subsection (b) with respect to any finding required to be made by the court under subsection (a). Such notice shall be provided before the beginning of the next fiscal year of that State or political subdivision occurring after the order or settlement is issued.

''(f) SPECIAL RULES.—For purposes of this section—

''(1) the District of Columbia shall be considered to be a State; and

''(2) any Act of Congress applicable exclusively to the District of Columbia shall be considered to be a statute of the District of Columbia.''.

(b) CONFORMING AMENDMENT.—The table of contents for chapter 85 of title 28, United States Code, is amended by adding after the item relating to section 1368 the following new item:

''1369. Limitation on Federal court remedies.''.

(c) STATUTORY CONSTRUCTION.—Nothing contained in this section or the amendments made by this section shall be construed to make legal, validate, or approve the imposition of a tax, levy, or assessment by a United States district court or a spending measure required by a United States district court.

(d) EFFECTIVE DATE.—This section and the amendments made by this section shall apply with respect to any action or other proceeding in a Federal court that is pending on, or commenced on or after, the date of the enactment of this Act, and the 1-year limitation set forth in subsection (b) of section 1369 of title 28, United States Code, as added by this section, shall apply to any court order or settlement described in subsection (a)(1) of such section 1369, that is in effect on the date of the enactment of this Act.

SEC. 6. REASSIGNMENT OF CASE AS OF RIGHT.

(a) IN GENERAL.—Chapter 21 of title 28, United States Code, is amended by adding at the end the following:

''§464. Reassignment of cases upon motion by a party

''(a) UPON MOTION.—(1) If all parties on one side of a civil case to be tried in a United States district court described in subsection (e) bring a motion to reassign the case, the case shall be reassigned to another appropriate judicial officer. Each side shall be entitled to one reassignment without cause as a matter of right.

''(2) If any question arises as to which parties should be grouped together as a side for purposes of this section, the chief judge of the court of appeals for the circuit in which the case is to be tried, or another judge of the court of appeals designated by the chief judge, shall determine that question.

''(b) REQUIREMENTS FOR BRINGING MOTION.—(1) Subject to paragraph (2), a motion to reassign under this section shall not be entertained unless it is brought, not later than 20 days after notice of the original assignment of the case, to the judicial officer to whom the case is assigned for the purpose of hearing or deciding any matter. Such motion shall be granted if—

''(A) it is presented before trial or hearing begins and before the judicial officer to whom it is presented has ruled on any substantial issue in the case, or

''(B) it is presented by consent of the parties on all sides.

''(2) Notwithstanding paragraph (1)—

''(A) a party joined in a civil action after the initial filing may, with the concurrence of the other parties on the same side, bring a motion under this section within 20 days after the service of the complaint on that party;

''(B) a party served with a supplemental or amended complaint or a third-party complaint in a civil action may, with the concurrence of the other parties on the same side, bring a motion under this section within 20 days after service on that party of the supplemental, amended, or third-party complaint; and

''(C) rulings in a case by the judicial officer on any substantial issue before a party who has not been found in default enters an appearance in the case shall not be grounds for denying an otherwise timely and appropriate motion brought by that party under this section.

''(3) No motion under this section may be brought by the party or parties on a side in a case if any party or parties on that side have previously brought a motion to reassign under this section in that case.

''(c) COSTS OF TRAVEL TO NEW LOCATION.—(1) If a motion to reassign brought under this section requires a change in location for purposes

of appearing before a newly assigned judicial officer, the party or parties bringing the motion shall pay the reasonable costs incurred by the parties on different sides of the case in travelling to the new location for all matters associated with the case requiring an appearance at the new location. In a case in which both sides bring a motion to reassign under this section that requires a change in location, the party or parties bringing the motions on both sides shall split the travelling costs referred to in the preceding sentence.

''(2) For parties financially unable to obtain adequate representation, the Government shall pay the reasonable costs under paragraph (1).

''(d) DEFINITION.—As used in this section, the term 'appropriate judicial officer' means—

''(1) a United States magistrate judge in a case referred to such a magistrate judge; and

''(2) a United States district court judge in any other case before a United States district court.

''(e) DISTRICT COURTS THAT MAY AUTHORIZE REASSIGNMENT.—The district courts referred to in subsection (a) are the district courts for the 21 judicial districts for which the President is directed to appoint the largest numbers of permanent judges.

''(f) 3-JUDGE COURT CASES EXCLUDED.—This section shall not apply to any civil action required to be heard and determined by a district court of 3 judges.''.

(b) CLERICAL AMENDMENT.—The table of contents for chapter 21 of title 28, United States Code, is amended by adding at the end the following new item:

''464. Reassignment of cases upon motion by a party.''.

(c) MONITORING.—The Federal Judicial Center shall monitor the use of the right to bring a motion to reassign a case under section 464 of title 28, United States Code, as added by subsection (a) of this section, and shall report annually to the Congress its findings on the basis of such monitoring.

(d) SUNSET.—Effective 5 years after the date of the enactment of this Act, section 464 of title 28, United States Code, and the item relating to that section in the table of contents for chapter 21 of such title, are repealed, except that such repeal shall not affect civil cases reassigned under such section 464 before the date of repeal.

SEC. 7. RANDOM ASSIGNMENT OF HABEAS CORPUS CASES.

Section 2241 of title 28, United States Code, is amended by adding at the end the following:

''(e) Applications for writs of habeas corpus received in or transferred to a district court shall be randomly assigned to the judges of that court.''.

SEC. 8. AUTHORITY OF PRESIDING JUDGE TO ALLOW MEDIA COVERAGE OF APPELLATE COURT PROCEEDINGS.

(a) AUTHORITY OF APPELLATE COURTS.—Notwithstanding any other provision of law, the presiding judge of an appellate court of the United States may, in his or her discretion, permit the photographing, electronic recording, broadcasting, or televising to the public of court proceedings over which that judge presides.

(b) AUTHORITY OF DISTRICT COURTS.—Notwithstanding any other provision of law, any presiding judge of a district court of the United States may, in his or her discretion, permit the photographing, electronic recording, broadcasting, or televising to the public of court proceedings over which that judge presides.

(c) ADVISORY GUIDELINES.—The Judicial Conference of the United States is authorized to promulgate advisory guidelines to which a presiding judge, in his or her discretion, may refer in making decisions with respect to the management and administration of photographing, recording, broadcasting, or televising described in subsections (a) and (b).

(d) DEFINITIONS.—As used in this section:

(1) PRESIDING JUDGE.—The term ''presiding judge'' means the judge presiding over the court proceeding concerned. In proceedings in which more than one judge participates, the presiding judge shall be the senior active judge so participating or, in the case of a circuit court of appeals, the senior active circuit judge so participating, except that—

(A) in en banc sittings of any United States circuit court of appeals, the presiding judge shall be the chief judge of the circuit whenever the chief judge participates; and

(B) in en banc sittings of the Supreme Court of the United States, the presiding judge shall be the Chief Justice whenever the Chief Justice participates.

(2) APPELLATE COURT OF THE UNITED STATES.—The term ''appellate court of the United States'' means any United States circuit court of appeals and the Supreme Court of the United States.

(e) SUNSET.—The authority under subsection (b) shall terminate on the date that is 3 years after the date of the enactment of this Act.

SEC. 9. MULTIPARTY, MULTIFORUM JURISDICTION OF DISTRICT COURTS.

(a) BASIS OF JURISDICTION.—

(1) IN GENERAL.—Chapter 85 of title 28, United States Code, is amended by adding at the end the following new section:

''§1370. Multiparty, multiforum jurisdiction

''(a) IN GENERAL.—The district courts shall have original jurisdiction of any civil action involving minimal diversity between adverse parties that arises from a single accident, where at least 25 natural persons have either died or incurred injury in the accident at a discrete location and, in the case of injury, the injury has resulted in damages which exceed $50,000 per person, exclusive of interest and costs, if—

''(1) a defendant resides in a State and a substantial part of the accident took place in another State or other location, regardless of whether that defendant is also a resident of the State where a substantial part of the accident took place;

''(2) any two defendants reside in different States, regardless of whether such defendants are also residents of the same State or States; or

''(3) substantial parts of the accident took place in different States.

''(b) SPECIAL RULES AND DEFINITIONS.—For purposes of this section—

''(1) minimal diversity exists between adverse parties if any party is a citizen of a State and any adverse party is a citizen of another State, a citizen or subject of a foreign state, or a foreign state as defined in section 1603(a) of this title;

''(2) a corporation is deemed to be a citizen of any State, and a citizen or subject of any foreign state, in which it is incorporated or has its principal place of business, and is deemed to be a resident of any State in which it is incorporated or licensed to do business or is doing business;

''(3) the term 'injury' means—

''(A) physical harm to a natural person; and

''(B) physical damage to or destruction of tangible property, but only if physical harm described in subparagraph (A) exists;

''(4) the term 'accident' means a sudden accident, or a natural event culminating in an accident, that results in death or injury incurred at a discrete location by at least 25 natural persons; and

''(5) the term 'State' includes the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

''(c) INTERVENING PARTIES.—In any action in a district court which is or could have been brought, in whole or in part, under this section, any person with a claim arising from the accident described in subsection (a) shall be permitted to intervene as a party plaintiff in the action, even if that person could not have brought an action in a district court as an original matter.

''(d) NOTIFICATION OF JUDICIAL PANEL ON MULTIDISTRICT LITIGATION.—A district court in which an action under this section is pending shall promptly notify the judicial panel on multidistrict litigation of the pendency of the action.''.

(2) CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 85 of title 28, United States Code, is amended by adding at the end the following new item:

''1370. Multiparty, multiforum jurisdiction.''.

(b) VENUE.—Section 1391 of title 28, United States Code, is amended by adding at the end the following:

''(g) A civil action in which jurisdiction of the district court is based upon section 1370 of this title may be brought in any district in which any defendant resides or in which a substantial part of the accident giving rise to the action took place.''.

(c) MULTIDISTRICT LITIGATION.—Section 1407 of title 28, United States Code, is amended by adding at the end the following:

''(i)(1) In actions transferred under this section when jurisdiction is or could have been based, in whole or in part, on section 1370 of this title, the transferee district court may, notwithstanding any other provision of this section, retain actions so transferred for the determination of liability and punitive damages. An action retained for the determination of liability shall be remanded to the district court from which the action was transferred, or to the State court from which the action was removed, for the determination of damages, other than punitive damages, unless the court finds, for the convenience of parties and witnesses and in the interest of justice, that the action should be retained for the determination of damages.

''(2) Any remand under paragraph (1) shall not be effective until 60 days after the transferee court has issued an order determining liability and has certified its intention to remand some or all of the transferred actions for the determination of damages. An appeal with respect to the liability determination and the choice of law determination of the transferee court may be taken during that 60-day period to the court of appeals with appellate jurisdiction over the transferee court. In the event a party files such an appeal, the remand shall not be effective until the appeal has been finally disposed of. Once the remand has become effective, the liability determination and the choice of law determination shall not be subject to further review by appeal or otherwise.

''(3) An appeal with respect to determination of punitive damages by the transferee court may be taken, during the 60-day period beginning on the date the order making the determination is issued, to the court of appeals with jurisdiction over the transferee court.

''(4) Any decision under this subsection concerning remand for the determination of damages shall not be reviewable by appeal or otherwise.

''(5) Nothing in this subsection shall restrict the authority of the transferee court to transfer or dismiss an action on the ground of inconvenient forum.''.

(d) REMOVAL OF ACTIONS.—Section 1441 of title 28, United States Code, is amended—

(1) in subsection (e) by striking ''(e) The court to which such civil action is removed'' and inserting ''(f) The court to which a civil action is removed under this section''; and

(2) by inserting after subsection (d) the following new subsection:

''(e)(1) Notwithstanding the provisions of subsection (b) of this section, a defendant in a civil action in a State court may remove the action to the district court of the United States for the district and division embracing the place where the action is pending if—

''(A) the action could have been brought in a United States district court under section 1370 of this title, or

''(B) the defendant is a party to an action which is or could have been brought, in whole or in part, under section 1370 in a United States district court and arises from the same accident as the action in State court, even if the action to be removed could not have been brought in a district court as an original matter.

The removal of an action under this subsection shall be made in accordance with section 1446 of this title, except that a notice of removal may also be filed before trial of the action in State court within 30 days after the date on which the defendant first becomes a party to an action under section 1370 in a United States district court that arises from the same accident as the action in State court, or at a later time with leave of the district court.

''(2) Whenever an action is removed under this subsection and the district court to which it is removed or transferred under section 1407(i) has made a liability determination requiring further proceedings as to damages, the district court shall remand the action to the State court from which it had been removed for the determination of damages, unless the court finds that, for the convenience of parties and witnesses and in the interest of justice, the action should be retained for the determination of damages.

''(3) Any remand under paragraph (2) shall not be effective until 60 days after the district court has issued an order determining liability and has certified its intention to remand the removed action for the determination of damages. An appeal with respect to the liability determination and the choice of law determination of the district court may be taken during that 60-day period to the court of appeals with appellate jurisdiction over the district court. In the event a party files such an appeal, the remand shall not be effective until the appeal has been finally disposed of. Once the remand has become effective, the liability determination and the choice of law determination shall not be subject to further review by appeal or otherwise.

''(4) Any decision under this subsection concerning remand for the determination of damages shall not be reviewable by appeal or otherwise.

''(5) An action removed under this subsection shall be deemed to be an action under section 1370 and an action in which jurisdiction is based on section 1368 of this title for purposes of this section and sections 1407, 1660, 1697, and 1785 of this title.

''(6) Nothing in this subsection shall restrict the authority of the district court to transfer or dismiss an action on the ground of inconvenient forum.''.

(e) CHOICE OF LAW.—

(1) DETERMINATION BY THE COURT.—Chapter 111 of title 28, United States Code, is amended by adding at the end the following new section:

''§ 1660. Choice of law in multiparty, multiforum actions

''(a) FACTORS.—In an action which is or could have been brought, in whole or in part, under section 1370 of this title, the district court in which the action is brought or to which it is removed shall determine the source of the applicable substantive law, except that if an action is transferred to another district court, the transferee court shall determine the source of the applicable substantive law. In making this determination, a district court shall not be bound by the choice of law rules of any State, and the factors that the court may consider in choosing the applicable law include—

''(1) the place of the injury;

''(2) the place of the conduct causing the injury;

''(3) the principal places of business or domiciles of the parties;

''(4) the danger of creating unnecessary incentives for forum shopping; and

''(5) whether the choice of law would be reasonably foreseeable to the parties.

The factors set forth in paragraphs (1) through (5) shall be evaluated according to their relative importance with respect to the particular action. If good cause is shown in exceptional cases, including constitutional reasons, the court may allow the law of more than one State to be applied with respect to a party, claim, or other element of an action.

''(b) ORDER DESIGNATING CHOICE OF LAW.—The district court making the determination under subsection (a) shall enter an order designating the single jurisdiction whose substantive law is to be applied in all other actions under section 1370 arising from the same accident as that giving rise to the action in which the determination is made. The substantive law of the designated jurisdiction shall be applied to the parties and claims in all such actions before the court, and to all other elements of each action, except where Federal law applies or the order specifically provides for the application of the law of another jurisdiction with respect to a party, claim, or other element of an action.

''(c) CONTINUATION OF CHOICE OF LAW AFTER REMAND.—In an action remanded to another district court or a State court under section 1407(i)(1) or 1441(e)(2) of this title, the district court's choice of law under subsection (b) shall continue to apply.''.

(2) CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 111 of title 28, United States Code, is amended by adding at the end the following new item:

''1660. Choice of law in multiparty, multiforum actions.''.

(f) SERVICE OF PROCESS.—

(1) OTHER THAN SUBPOENAS.—(A) Chapter 113 of title 28, United States Code, is amended by adding at the end the following new section:

''§ 1697. Service in multiparty, multiforum actions

''When the jurisdiction of the district court is based in whole or in part upon section 1370 of this title, process, other than subpoenas, may be served at any place within the United States, or anywhere outside the United States if otherwise permitted by law.''.

(B) The table of sections at the beginning of chapter 113 of title 28, United States Code, is amended by adding at the end the following new item:

''1697. Service in multiparty, multiforum actions.''.

(2) SERVICE OF SUBPOENAS.—(A) Chapter 117 of title 28, United States Code, is amended by adding at the end the following new section:

''§ 1785. Subpoenas in multiparty, multiforum actions

''When the jurisdiction of the district court is based in whole or in part upon section 1370 of this title, a subpoena for attendance at a hearing or trial may, if authorized by the court upon motion for good cause shown, and upon such terms and conditions as the court may impose, be served at any place within the United States, or anywhere outside the United States if otherwise permitted by law.''.

(B) The table of sections at the beginning of chapter 117 of title 28, United States Code, is amended by adding at the end the following new item:

''1785. Subpoenas in multiparty, multiforum actions.''.

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to a civil action if the accident giving rise to the cause of action occurred on or after the 90th day after the date of the enactment of this Act.

SEC. 10. APPEALS OF MERIT SYSTEMS PROTECTION BOARD.

(a) APPEALS.—Section 7703 of title 5, United States Code, is amended—

(1) in subsection (b)(1), by striking ''30'' and inserting ''60''; and

(2) in the first sentence of subsection (d), by inserting after ''filing'' the following: '', within 60 days after the date the Director received notice of the final order or decision of the Board,''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) take effect on the date of the enactment of this Act and apply to any administrative or judicial proceeding pending on that date or commenced on or after that date.

The CHAIRMAN. Are there any amendments to the bill?

AMENDMENT OFFERED BY MR. COBLE

Mr. COBLE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. COBLE:

Add the following at the end:

SEC. 11. EXTENSION OF JUDICIARY INFORMATION TECHNOLOGY FUND.

Section 612 of title 28, United States Code, is amended—

(1) by striking ''equipment'' each place it appears and inserting ''resources'';

(2) by striking subsection (f) and redesignating subsequent subsections accordingly;

(3) in subsection (g), as so redesignated, by striking paragraph (3); and

(4) in subsection (i), as so redesignated—

(A) by striking ''Judiciary'' each place it appears and inserting ''judiciary'';

(B) by striking ''subparagraph (c)(1)(B)'' and inserting ''subsection (c)(1)(B)''; and

(C) by striking ''under (c)(1)(B)'' and inserting ''under subsection (c)(1)(B)''.

SEC. 12. OFFSETTING RECEIPTS.

For fiscal year 1999 and thereafter, any portion of miscellaneous fees collected as prescribed by the Judicial Conference of the United States pursuant to sections 1913, 1914(b), 1926(a), 1930(b), and 1932 of title 28, United States Code, exceeding the amount of such fees in effect on September 30, 1998, shall be deposited into the special fund of the Treasury established under section 1931 of title 28, United States Code.

SEC. 13. MEMBERSHIP IN CIRCUIT JUDICIAL COUNCILS.

Section 332(a) of title 28, United States Code, is amended—

(1) by striking paragraph (1) and inserting the following:

''(1) The chief judge of each judicial circuit shall call and preside at a meeting of the judicial council of the circuit at least twice in each year and at such places as he or she may designate. The council shall consist of an equal number of circuit judges (including the chief judge of the circuit) and district judges, as such number is determined by majority vote of all such judges of the circuit in regular active service.'';

(2) by striking paragraph (3) and inserting the following:

''(3) Except for the chief judge of the circuit, either judges in regular active service or judges retired from regular active service under section 371(b) of this title may serve as members of the council.''; and

(3) by striking ''retirement,'' in paragraph (5) and inserting ''retirement under section 371(a) or section 372(a) of this title,''.

SEC. 14. SUNSET OF CIVIL JUSTICE EXPENSE AND DELAY REDUCTION PLANS.

Section 103(b)(2)(A) of the Civil Justice Reform Act of 1990 (Public Law 101–650; 104 Stat. 5096; 28 U.S.C. 471 note), as amended by Public Law 105–53 (111 Stat. 1173), is amended by inserting ''471,'' after ''sections''.

SEC. 15. CREATION OF CERTIFYING OFFICERS IN THE JUDICIAL BRANCH.

(a) APPOINTMENT OF DISBURSING AND CERTIFYING OFFICERS.—Chapter 41 of title 28, United States Code, is amended by adding at the end the following new section:

''§ 613. Disbursing and certifying officers

''(a) DISBURSING OFFICERS.—The Director may designate in writing officers and employees of the judicial branch of the Government, including the courts as defined in section 610 other than the Supreme Court, to be

disbursing officers in such numbers and locations as the Director considers necessary. Such disbursing officers shall—

''(1) disburse moneys appropriated to the judicial branch and other funds only in strict accordance with payment requests certified by the Director or in accordance with subsection (b);

''(2) examine payment requests as necessary to ascertain whether they are in proper form, certified, and approved; and

''(3) be held accountable for their actions as provided by law, except that such a disbursing officer shall not be held accountable or responsible for any illegal, improper, or incorrect payment resulting from any false, inaccurate, or misleading certificate for which a certifying officer is responsible under subsection (b).

''(b) CERTIFYING OFFICERS.—(1) The Director may designate in writing officers and employees of the judicial branch of the Government, including the courts as defined in section 610 other than the Supreme Court, to certify payment requests payable from appropriations and funds. Such certifying officers shall be responsible and accountable for—

''(A) the existence and correctness of the facts recited in the certificate or other request for payment or its supporting papers;

''(B) the legality of the proposed payment under the appropriation or fund involved; and

''(C) the correctness of the computations of certified payment requests.

''(2) The liability of a certifying officer shall be enforced in the same manner and to the same extent as provided by law with respect to the enforcement of the liability of disbursing and other accountable officers. A certifying officer shall be required to make restitution to the United States for the amount of any illegal, improper, or incorrect payment resulting from any false, inaccurate, or misleading certificates made by the certifying officer, as well as for any payment prohibited by law or which did not represent a legal obligation under the appropriation or fund involved.

''(c) RIGHTS.—A certifying or disbursing officer—

''(1) has the right to apply for and obtain a decision by the Comptroller General on any question of law involved in a payment request presented for certification; and

''(2) is entitled to relief from liability arising under this section in accordance with title 31.

''(d) OTHER AUTHORITY NOT AFFECTED.—Nothing in this section affects the authority of the courts with respect to moneys deposited with the courts under chapter 129 of this title.''.

(b) CONFORMING AMENDMENT.—The table of sections for chapter 41 of title 28, United States Code, is amended by adding at the end the following item:

''613. Disbursing and certifying officers.''.

(c) DUTIES OF DIRECTOR.—Paragraph (8) of subsection (a) of section 604 of title 28, United States Code, is amended to read as follows:

''(8) Disburse appropriations and other funds for the maintenance and operation of the courts;''.

Page 17, line 12, strike ''**appellate**''.

Mr. COBLE (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

Mr. COBLE. Mr. Chairman, this is a technical amendment that contains no controversial provisions, but which will aid in making the judiciary function more efficiently, and will clarify certain provisions of the law as they pertain to the third branch.

In short, the amendment will extend the Judiciary Information Technology Fund, allow the judiciary to retain any additional offsetting receipts derived from increases in miscellaneous fees charged in the Federal courts, enhance membership in Circuit Judicial Councils, sunset the Civil Justice Expense Plan, and create certifying officers in the judicial branch.

I urge my colleagues to support this technical amendment, which I believe contains no controversial matter.

Summary follows for purposes of questions or explanation

Extension of the Judiciary Information Technology Fund: This amendment eliminates the provision in the statute authorizing the Judiciary Information Technology Fund, which subjects the activities of this Fund to the management process of the executive branch.

Offsetting Receipts: This provision would allow the judiciary to retain any additional offsetting receipts derived from increases in miscellaneous fees charged in the federal courts of appeals, district courts, bankruptcy courts, the Court of Federal Claims, and the Judicial Panel on Multi-district Litigation. This provision responds to a directive from congressional appropriations committees that the Judiciary identify ways to increase offsetting receipts.

Membership in Circuit Judicial Councils: This section amends 28 U.S.C. §332(a) to enhance judge participation in the federal judiciary's internal governance process by equalizing the representation of circuit judges and district judges on circuit judicial councils and establishing the eligibility of senior circuit and district judges to serve as members of those councils.

Sunset of Civil Justice Expense and Delay Reduction Plans: This provision would clarify that section 103(b)(2)(A) of the Civil Justice Reform Act is not to be extended. Provisions of the Civil Justice Reform Act have lapsed. An amendment to last year's Appropriations Act extended the reporting of old cases, but unintentionally also extended this section of the Act. This section was intended to sunset, but a technical change is needed to clarify that intent. This simply accomplishes that purpose.

Creation of Certifying Officers in the Judicial Branch: This section would enable the Director of the Administrative Office of the United States Courts to appoint certifying officials in the various court units who would be responsible for the propriety of payments they request. It would also enable the Director of the AO to appoint disbursing officials in the various court units who would be responsible for ensuring that payment requests are proper, certified and approved.

Mr. FRANK of Massachusetts. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I agree with the gentleman from North Carolina (Mr. COBLE).

The CHAIRMAN. The question is on the amendment offered by the gentleman from North Carolina (Mr. COBLE).

The amendment was agreed to.

The CHAIRMAN. Are there other amendments?

AMENDMENT NO. 3 OFFERED BY MR. DELAHUNT

Mr. DELAHUNT. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 3 Offered by Mr. DELAHUNT:

Page 9, strike lines 13 through 20 and insert the following:

''(2) The limitation contained in paragraph (1) shall apply only to any order or settlement which expressly directs any State, or political subdivision of a State, to impose, increase, levy, or assess any tax.

Redesignate succeeding paragraphs accordingly.

Mr. DELAHUNT. Mr. Chairman, some context is needed to understand this amendment. Reference was made earlier to the Missouri versus Jenkins case.

Back in 1990, the Supreme Court rendered a decision involving the State of Missouri; and it held clearly that the Federal courts could not directly impose a tax levy on State or local governments. As far as I can tell, every member of the Committee on the Judiciary, on a bipartisan basis, understands and supports that concept. That is a principle everyone embraced.

This amendment which I have filed with my colleague, the gentleman from New York (Mr. BOEHLERT), would simply do just that. Let me repeat, the amendment would prohibit a court from directly imposing a tax increase on State or local government, or any other political subdivision, for that matter, as a remedy for an illegal or wrongful action by that particular State or local government.

This amendment, the Delahunt-Boehlert amendment, makes clear that the levying of taxes is not an appropriate judicial function. It leaves it to State and local governments to decide how to fund a judicial remedy to some illegal or wrongful action that they themselves are responsible for.

It may involve spending cuts. It may involve borrowing. It may even involve raising taxes. But it is the State or local government's decision, not the court's decision, how to fund that particular remedy. That is what this amendment is all about. In fact, when I offered this amendment at the subcommittee it was agreed to.

I might add, there was considerable discussion at that point in time. It was voted unanimously, on a voice vote. However, the bill came out of the full committee dramatically changed, changed to the point that it is now considered unconstitutional by hundreds of legal scholars.

The Department of Justice also agrees, as it is presently drafted, it is of dubious constitutionality, and that based on these and other concerns with the bill, the Attorney General will absolutely recommend a veto unless amended.

As presently written, a court could not even issue an order which would require a State or local government to

impose a tax. That is absurd. It is the end of an independent judiciary, because it is utterly meaningless for the courts to order a remedy without the ability to compel the wrongdoer to implement that remedy.

Just imagine how State and local governments could flout court orders by simply claiming they did not have sufficient cash on hand to comply with the remedy. It is no exaggeration to say that a State or local government could very well avoid responsibility for its malfeasance in the operation of a sewage treatment plant that polluted our constituents' drinking water if this amendment fails. That is one of the reasons that every major environmental group in the country opposes the underlying bill.

The bill as it now stands is worse than the perceived abuses it was meant to cure. Speaking to that issue of perceived abuses, let us be honest. Despite what we hear, there is no outbreak of judicial taxation cases in this country today. They simply do not exist.

The truth is clear. It is very simple. The Federal courts have not directly imposed a tax, except for the single school desegregation case, Missouri versus Jenkins, which I referenced earlier and the gentleman from Illinois alluded to. That case was overturned in 1995 by a unanimous Supreme Court that rejected the concept of direct imposition of taxes by a Federal court.

Adoption of the Delahunt-Boehlert amendment would accomplish the goals articulated by many of those who advocate judicial restraint. Let us exercise some common sense and support the Delahunt-Boehlert amendment.

Mr. COBLE. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, my good friend, the gentleman from Massachusetts and I generally agree on this matter. I am not in agreement with him. I appreciate his comments, but the amendment was defeated in full committee during markup.

I think, Mr. Chairman, this probably would gut the judicial taxation provision of the bill. The amendment would allow a Federal judge to, in my opinion, circumvent section 5 of the bill in the following manner. The provisions constraining the ability of a judge to order a State or municipality to impose taxes on affected citizens would apply only if a judge expressly directed a tax.

□ 1200

To avoid the restrictions set forth in section 5, a judge, it seems to me, could simply order a State or municipality to construct a new school building, for example, according to particular specifications, without specifying how the project would be funded.

The practical effect of this result, however, would be to compel the State or the municipality or whatever political subdivision to impose a tax if no other revenues were available. And I believe that the bill as written cures such a problem by applying section 5 to orders which expressly direct a tax or which necessarily require a tax. And for those reasons, Mr. Chairman, I oppose the amendment.

Mr. BOEHLERT. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in strong support of the Delahunt-Boehlert amendment. What is at stake here is nothing less than whether we are going to exempt State and local governments from complying with a wide range of environmental and other laws. I do not think that Congress ought to be providing that sort of blanket exemption.

I want to emphasize again that the issue here is whether we believe that States and localities ought to comply with the laws we pass. This is not about judicial activism or tax rates. Our amendment blocks judicial activism by keeping intact all of the provisions of section 5 that prevent judges from imposing or raising taxes. Let me repeat that. Our amendment blocks judicial activism by keeping intact all of the provisions of section 5 that prevent judges from imposing or raising taxes.

Courts ought not to be levying taxes and our amendment keeps them from doing so. But the language we are removing from the bill would do far more than prevent judges from overreaching. It would prevent judges from doing their jobs. It would prevent judges from taking actions that are required by law.

For example, let us say a municipal waste treatment plant upstream from our town is discharging pollutants into a river, closing beaches in our town. We sue to get the sewage treatment plant to comply with the standards in the Clean Water Act. Under H.R. 1252, a judge could be unable to issue an order requiring compliance with the Clean Water Act, because doing so might lead the town to raise taxes.

Even worse, if we and the town agreed to settle the case by the town agreeing voluntarily to fix the sewage treatment plant, H.R. 1252 could forbid the judge from approving the voluntary settlement. Yet, if an industry were discharging the same pollutants into the same river, a judge would be able to force the industry to comply.

That is bad law. That is bad policy. And, quite simply, it is unfair.

Virtually every environmental group, as well as the Judicial Conference of the United States, chaired by Chief Justice Rehnquist, oppose section 5 because of its perverse consequences such as the ones I have just outlined. And environmental laws are not the only ones that could become dead letters under this bill. The Americans with Disabilities Act, the Individuals with Disabilities Education Act, other civil rights statutes and worker protection statutes would also be affected. Indeed, one judge has noted that even the Brown v. Board of Education decision would have been difficult to enforce if H.R. 1252 had been in effect.

Section 5 as written would simply undermine the enforcement of our laws. If Congress does not like the laws, like the Clean Water Act, then we ought to rewrite them. But we will not do that because the laws have proven so successful and so immensely popular.

If we think localities ought to get more Federal aid to comply with these laws, let us provide the money. I am fighting with the administration right now to increase the funding available for municipal sewage treatment plants.

Those are all reasonable remedies. Preventing enforcement of statutes that are on the books is not a reasonable way to change the law. In fact, the approach in this bill is to offset, offer massive congressional overreaching to counteract an occasional and rare judicial overreaching. It is like hearing that one of our kids has misbehaved at school and responding by never sending any of our kids to school again.

Mr. Chairman, I urge support for the Delahunt-Boehlert amendment. It will prevent judges from raising taxes while allowing the proper enforcement of legitimate laws to continue.

Mr. MANZULLO. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the Delahunt-Boehlert amendment would gut section 5. There is a legal fiction as to whether or not a court can order the increase of tax or a court can order a municipality to increase tax.

Our bill provides in both situations a court will be prevented from directly or indirectly raising taxes. What the amendment does, it prevents a court from directly raising taxes, but all the courts have to do is to read Missouri versus Jenkins and instead of the court directly raising the tax, it says ''I am ordering you to raise the tax.''

The Delahunt-Boehlert amendment would allow a Federal judge, as the judge in Rockford, Illinois, has done, to point to a duly elected school board and say, ''Either you raise taxes or you are going to jail.'' That is the purpose of section 5.

If the amendment is adopted, the Delahunt-Boehlert amendment, it will not affect the situation. The judge can still do the same thing. And it is legal fiction which they are presenting before this body today to allow them to have all of the congressional mandates come before the Federal courts and for the Federal courts to say, local municipalities to comply, either raise taxes or go to jail. That is what this amendment is about.

Mr. Chairman, I have letters here from people in Rockford, Illinois. Mr. DELAHUNT said he knew of no area in the country that is affected similarly to Kansas City, Missouri. Well, the same master in Kansas City, Missouri is now the master in Rockford, Illinois. Listen to this letter from Adam Lamarre:

Dear Representative Manzullo, Thank you for the support you gave limiting the powers of judges to impose taxes. My family is considering moving out of Rockford because we can no longer afford to pay high taxes.

This is from Earl and Ann Young in Rockford:

Dear Mr. Manzullo, we are very affected by Magistrate Mahoney's rulings. We are senior citizen property owners in Rockford School District 205, living on a fixed income, who are being taxed out of our home!

To add insult to injury, we did not live in Rockford when the alleged discrimination took place, have never had children in the Illinois school system, but we are judged guilty because our House is in district 205.

We would like you to tell us how can this one man,'' the unelected magistrate responsible to no one, ''assume to have all this power, and what action you are pursuing in Washington.

And a letter from Carol Angelico:

I'm writing to you because of my saddened frustration that no one can 'fairly' resolve the unnecessary and overburdening taxation problem in our City of Rockford.

Oh, yes, the City of Rockford, with over 2,200 homes for sale in a city of less than 150,000 people. The City of Rockford, where the property values keep going down. The City of Rockford, where people are being taxed unmercifully and senior citizens come to my office with tears in their eyes and say, ''Congressman, we cannot afford to pay our taxes because the Federal magistrate raised our taxes. You represent us. You should be the one responsible, because if you raise taxes, I will remove you from office.''

What we are doing today is historic, perhaps the first time in the history of this Republic in which Congress is trying to reclaim the ground where only we have the power in Federal situations to raise taxes, and to take it back from the courts and say that they do not have the power to raise taxes. That was not given to them.

Hamilton expressly said, ''You shall not have it.'' Madison said, ''You shall not have it.'' And Jefferson said, when writing about King George III, said, ''He has taxed us without representation.''

This is what this Republic is about. Who is in control of raising taxes in this Republic? Is it the unelected judges appointed for life, or is it Members of the United States Congress who have to stand for reelection every 2 years?

Delahunt-Boehlert guts section 5. It makes it meaningless, and I would urge my colleagues, especially those who voted yesterday that said this body can only raise taxes by having two-thirds of the vote, to say only this body can raise taxes and not the judiciary, and to vote against Delahunt-Boehlert.

Mr. Chairman, I include the following for the RECORD:

APRIL 12, 1997.

Congressman DON MANZULLO,
Cannon House Office Bldg., Washington, DC.

CONGRESSMAN MANZULLO: I'm writing to you because of my saddened frustration that no one can ''Fairly'' resolve the unnecessary and over-burdening taxation problem in our city of Rockford.

I'll clarify my above statement by getting to the point as briefly as I can. A federal judge ''Mahoney'' ordered real estate tax increases to pay for three (3) new schools (we have closed schools in some areas and have been busing our school children), this ruling was the result of a lawsuit because a small group of people didn't like their school being closed and it accelerated into a state of ''ridiculous'' with an end result of lawyers fees, court fees, and consultant fees already costing $100 million dollars taken from a Tort Fund which was the money to be used for the schools. This is not right!

1st—A judge taxes us without any representation (our forefathers started this country because of that reason).

2nd—$100 million dollars spent not for our school children, or schools but for lawyers, and consultants. That money would have been better spent improving the education of our children.

My husband and I have filed a joint tax protest with other people in town to no avail, and have spoken to our State Rep's before only to hear a lot of rhetoric but no action to back them up and change the laws regarding federal judges rulings with no regard to the negative effect financially on the community, nor allowing the majority of the people to have their voice heard and vote on instead of just giving the minority a voice. I thought this country was a democracy in which the majority vote was the law/rule, at least that's what I was taught in history classes in school. Have our governing bodies forgotten that! A federal judge wielding such a ruling not only here but anywhere in the U.S. is wrong!!! We are paying so much in taxes already, not only Real Estate but other areas of our now structured government.

So I'm asking you Congressman, to continue to take the initiative and act on the behalf of the hard working people who pay all these taxes by doing without and tightening the belt, but the belt is becoming so tight we are all strangling. We want our schools to produce educated people but that's not what our money is being used for. It has not gone to the schools or for our children's education. New schools do not educate; teachers, books, computers, etc. do!! Changes need to be made regarding this matter. Two incomes are already necessary today so we can give our families the necessities of life because the taxation has gotten out of hand, literally, from our hands to government hands. Then we have the additional burden of our school districts court order. People can't keep their homes for their children who would be going to our school, not to mention our elderly homeowners. My husband and I are paying monthly real estate payments almost equal to our mortgage payment, this is really getting scary because we were reassessed on our property again last year and our tax bill will be higher again for 1996.

Please express to your fellow congressmen and congresswomen that it's their responsibility, which was given to them by us the the voter, that they are in the political office they now hold, to work for and with the majority of us not against us. That's how they won their office, by the majority not the minority. I hear to many people say why write to express your dissatisfaction, nothing gets done about, only the minority get catered to and politicians are only self-interested in matter to better themselves and not the general public—PROVE THEM WRONG!!!

Respectfully,

CAROL A. ANGELICO.

DECEMBER 26, 1997.

Representative DONALD MANZULLO,
Broadway, Suite 1, Rockford, IL.

DEAR MR. MANZULLO: The enclosed article is from the December 26, 1997 issue of the Rockford Register Star. It reflects a major concern of ours. How does an appointed official of the Judiciary Branch of our Government obtain such power, and what can be done to eliminate the power, and/or remove Mahoney from office?

Mr. Nelson, the writer of the article, claims to be ''a citizen not directly affected by the decision.'' We, on the other hand, are very affected by Mahoney's rulings. We are Senior Citizen property owners in School District 205, living on a fixed income, who are being taxed out of our home!

To add insult to injury, we did not live in Rockford when the alleged discrimination took place, have never had children in the Illinois school system, but we are judged guilty because our house is in district 205.

We would like you to tell us how this one man can assume to have all this power, and what action YOU are pursuing in Washington to restrict and/or eliminate such misuse of assumed judicial power!

Sincerely Yours,

EARL AND ANN YOUNG.

TIME TO CLIP JUDICIAL WINGS

Magistrate P. Michael Mahoney should be given a Nobel Prize for coming up with a solution to our most vexing problem, how to lower taxes. Since he has established that elected legislative bodies must vote according to the wishes of the judiciary, we can save enormous sums of money by eliminating all such bodies and just let the judiciary run the country. Think of the savings: No senators, no congressmen, no aldermen, no county boards, and most importantly the elimination of the bureaucracies that support these institutions. In fact we can take it one step further and eliminate the executive branch and let judges appoint masters.

To those of you who support Magistrate Mahoney's decision, would you support him if he ordered the state legislature to raise the state income tax 30 percent to pay for increases in school funding or raises for judges?

Would you support him if he ordered you to vote for a specific candidate in the next election?

To our elected representatives: It is up to you to assert your constitutional right to the separation of powers.

The judiciary has been allowed to slowly undermine the very constitution that they are sworn to protect.

If this nation is to continue to exist as a democratic republic, it is up to those legislators elected by the people to reassert their constitutional right to vote their conscience.

I am aware that this is not the first time the judiciary has directed an action by elected officials, but I am not aware of any other time that a member of the judiciary has determined how to fund said action. As a citizen not directly affected by the decision, I besiege our state and federal legislators to clip the wings of the judiciary before they make voters totally irrelevant.

I realize that this particular case involves a lowly little school board, but remember, this is an elected legislative body being ordered to vote a specific way by a lowly federal magistrate acting on behalf of one semi-retired judge.—Roger T. Nelson, Loves Park

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ROCKFORD, IL,
July 3, 1997.

DEAR REP MANZULLO: Thank you for the support you gave limiting judge's ability to impose taxes. My family is considering moving out of Rockford because we can no longer afford to pay the big property taxes.

Sincerely,

ADAM LAMARRE.

Mr. CONYERS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would ask the gentleman from Illinois (Mr. MANZULLO)

whether he has ever heard of the Supreme Court case, Missouri v. Jenkins.

Mr. MANZULLO. Yes, I quoted from that.

Mr. CONYERS. Well, did the gentleman not read in there that the courts cannot impose taxes?

Mr. MANZULLO. It is very simple——

Mr. CONYERS. Mr. Chairman, I just asked the gentleman a question.

Mr. MANZULLO. If I am given the opportunity to respond——

Mr. CONYERS. Yes or no?

Mr. MANZULLO. What is the question again?

Mr. CONYERS. Forget it.

Mr. MANZULLO. No, I do not want to forget it. I want to make this clear.

Mr. CONYERS. Well, I want to forget it on my time.

The CHAIRMAN. The gentleman from Michigan (Mr. CONYERS) controls the time.

Mr. CONYERS. Mr. Chairman, before we vote, the Supreme Court said, in the case that the gentleman read so clearly, and the question when he could not remember what I asked, said that the court cannot impose taxes. Repeat. The court cannot impose taxes. They can enforce an order for taxes. That is the case.

So I urge the gentleman to read it again.

Mr. DELAHUNT. Mr. Chairman, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from Massachusetts.

Mr. DELAHUNT. Mr. Chairman, I would just reiterate what the gentleman from Michigan (Mr. CONYERS) said in terms of the holding in the Missouri v. Jenkins case, and the gentleman from Illinois indicated that he was quoting from Missouri v. Jenkins. He quoted earlier from Thomas Jefferson, or at least he credited Thomas Jefferson the quote that taxation without representation is tyranny.

Mr. Chairman, I would correct the gentleman, because I come from that part of the country where the gentleman was born and raised who had made that quote. His name is James Otis and he lived on Cape Cod.

Mr. Chairman, I do not know whether the gentleman misquoted or misread the Missouri v. Jenkins decision, but it clearly stated that Federal courts could not impose a tax levy on a State or local government. In the Federal district court which had earlier issued an order that did impose a tax levy in that tax case, it was overturned by a unanimous decision of the Supreme Court.

The Boehlert-Delahunt amendment simply codifies the Missouri case. It prohibits a court from directly imposing a tax increase on State and local government or any other.

Mr. CONYERS. Mr. Chairman, reclaiming my time, let us all go to law school. All right? The Supreme Court case. Outside the context of a few 19th century municipal bond cases, the Federal courts have not directly imposed a tax except for a single school desegregation case, Missouri v. Jenkins. And even this isolated case was overturned by the Supreme Court in 1995 when the Justices unanimously rejected the concept of a direct Federal court imposition of taxes. Now, is that clear or is it not?

Mr. Chairman, I did not ask the gentleman anything. I just wanted to get his attention to read simple English to him of what the Supreme Court said.

□ 1215

The gentleman may get his own time.

Mr. DELAHUNT. Mr. Chairman, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from Massachusetts.

Mr. DELAHUNT. Mr. Chairman, I think what is most interesting is that upon a careful and thorough analysis of the language that presently exists in title V, that there has been a conclusion by many legal scholars that that language is patently unconstitutional as a result of the decision in Missouri v. Jenkins. It is also clear that the Department of Justice will recommend a veto of this bill if it should pass, if this language is not deleted and the Boehlert-Delahunt amendment does not pass.

Mr. CONYERS. Mr. Chairman, reclaiming my time, I am going to read this one more time. I am going to read it slowly.

The CHAIRMAN. The time of the gentleman from Michigan (Mr. CONYERS) has expired.

(By unanimous consent, Mr. CONYERS was allowed to proceed for 1 additional minute.)

Mr. CONYERS. Mr. Chairman, I am going to read this one more time.

Outside the context of a few 19th century municipal bond cases, the Federal courts have not directly imposed a tax except for a single school desegregation case, Missouri v. Jenkins. And even this isolated case was overturned by the Supreme Court in 1995, when the Justices unanimously rejected the concept of direct Federal court imposition of taxes.

End of sentence.

Mr. CAMPBELL. Mr. Chairman, I move to strike the requisite number of words, and I yield to the gentleman from Illinois (Mr. MANZULLO).

Mr. MANZULLO. Mr. Chairman, the Missouri versus Jenkins case is very simple. Five justices against four justices ruled that a court can indirectly raise taxes by applying this legal fiction. The difference is between the judge saying from the bench, I raise your taxes, and the judge saying, I order you to raise your taxes.

The Delahunt-Boehlert amendment would still allow a judge to say, I order you to raise your taxes. In fact, the majority decision was so feeble that four justices in the minority said that the majority opinion ''is an expansion of power in the Federal judiciary beyond all precedent,'' and Delahunt-Boehlert, therefore, if they are saying it would codify Missouri versus Jenkins, would therefore be, quote, ''an expansion of power in the Federal judiciary beyond all precedent.''

It is just that simple. A vote on that amendment would gut section 5. It would still allow judicial taxation to take place. And for my friend from Massachusetts, I would say, if he would make reference to the Declaration of Independence, that is where Mr. Jefferson says and accuses King George III of taxing the people without representation. I like to quote from Jefferson. He is the most credible.

Mr. CAMPBELL. Reclaiming my time, Mr. Chairman, Missouri versus Jenkins, I believe, is correctly described both by my friend from Illinois and my friend from Massachusetts. Accordingly, at least as I read it, if the Boehlert-Delahunt amendment passes, the bill will have no effect beyond Missouri versus Jenkins, and Missouri versus Jenkins does say that a court may not directly impose a tax. So both gentlemen are right, Mr. Chairman, which is to say that if this amendment passed, the purpose of this bill will be defeated.

I would like that result—if the bill's managers has not agreed to my amendment. The problem is, my amendment comes up next, it is not up now. So I would like to take a moment and explain what my amendment would do because I think it takes the most dangerous part of this bill away.

The most dangerous part of this bill to me is section F of section 5. The whole idea of this bill is to make it hard for courts to impose taxes; fine. Since Missouri versus Jenkins says a court cannot directly impose a tax, this bill says let us also make it hard for courts effectively to impose a tax by leaving no other options. Okay, fine, let us make it hard.

But—do not make it impossible. Where the Constitution requires it; it should be done. Accordingly, what I would like to do is to go through the provisions that are left in the bill, because if my amendment is taken, which strikes F, then the remaining restrictions, I think, are very reasonable; namely, that a court cannot effectively impose a tax unless it is constitutional to do so, it is narrowly imposed, it will help as opposed to make worse the problem being addressed by the court suit in the first place, there is no adequate alternative remedy under the State and local government, and the interests of the State are not unconstitutionally usurped. That is the exact phrase used.

Accordingly, if you get rid of F, there is nothing, at least in my mind, that is difficult in this proposal (or, surely, that is unconstitutional) in this proposal. What was F? ''F'' was that the court would have to be assured that the proposed tax would not result in a depreciation of property values. That is an impossible standard, because any property tax is going to result in a depreciation of property values.

Suppose, for example, a school desegregation order said a school district had to allow in blacks. The school district's revenues come from property tax. Say the school district now must allow in 20 to 30 percent more children; the taxes then have to go up to pay for them. There go the property values.

My good friends on this side of the aisle are willing to drop section F, and I only hope that my amendment had come up first. It has not, but under the assurance that it will, I would simply wish to point out that the unconstitutional aspects of this provision are now gone.

With that, Mr. Chairman, I yield to the gentleman from Michigan (Mr. CONYERS).

Mr. CONYERS. Mr. Chairman, I thank the gentleman from California for yielding to me. I hope he teaches a law school course for Members of Congress in the evenings with or without credit because I completely agree with him.

PARLIAMENTARY INQUIRY

Mr. CAMPBELL. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. CAMPBELL. Is it in order, Mr. Chairman, to ask unanimous consent to consider my amendment ahead of this or to consider it at this time? Is there a procedural provision allowing that or not?

The CHAIRMAN. In response to the gentleman's query of the Chair, the pending amendment would have to be first withdrawn by unanimous consent of the Committee of the Whole.

Mr. CAMPBELL. Then I cannot proceed as I would have liked to. I thank the Chair.

Mr. GILCHREST. Mr. Chairman, I move to strike the requisite number of words.

I rise to support the Boehlert-Delahunt amendment. I would like to say very clearly first that the gentleman from Illinois has a good argument in that we are taxed very heavily now, so I want to commend him on his effort to streamline the whole complex tax system. It is just that I fear that his method, which we agree with basically, would go a little bit too far and have consequences that the gentleman from Massachusetts does not foresee. This bill and this amendment would not give the courts any extra power to raise taxes. It does not change anything in my understanding in that area at all.

The gentleman from Illinois quoted Jefferson. He quoted Madison and he quoted Hamilton. Jefferson and Hamilton certainly did not want taxation without representation. This amendment does not tax people without representation. People continue to have representation. Jefferson, Hamilton, Madison would want people to have clean water, and they would want the collective community to be responsible for clean water.

Let me give my colleagues an example. In my district, the Chesapeake Bay, over the last year or so, we have been having a problem with a microorganism called pfiesteria. It is scientific conclusion that pfiesteria is stimulated in part by extra nitrogen and phosphorous going into the waterways. The courts and the community, the public sector can impose fines and cause farmers to have to pay for the improvement of their practices to reduce phosphorous and nitrogen getting into the water.

If the gentleman from Illinois does not, if the gentleman from New York does not have his amendment passed, the farmer would have to pay to clean up his act, but the local sewage treatment plant, which has also caused phosphorous and nitrogen into the waterway, which is called Pokomoke, would not.

So the farmer would go to all these expenses and the local sewage treatment plant and everybody has a little problem with money, even people have problems with whether or not there really is a problem. And sometimes there are problems with competency, and the court is there to say yes, you also have to clean up your act.

I will give you an example in Baltimore City. The sewage treatment plant right now is under order from the EPA to clean up their act. The EPA is going to fine, with the help of the courts, Baltimore not to put more nitrogen and phosphorous into the water.

The local ARCO plant, the local CONOCO plant, they have to clean up. They have to pay. The private sector has to pay. The farmer has to pay. But unless this amendment passes, the city of Baltimore does not have to do anything. They can continue to put the phosphorous and the nitrogen in the water that is causing to a great extent this microorganism that is decimating the fish population of the Chesapeake Bay.

The Boehlert amendment does not give the court system any iota of more power to raise taxes, but unless the Boehlert amendment passes, your local farmer is going to be more responsible for cleaning up the waterways than the public facilities. I am sure Jefferson and Hamilton wanted us to drink clean water, and I think this amendment is perfectly balanced.

Mr. Chairman, I yield to the gentleman from New York (Mr. BOEHLERT).

Mr. BOEHLERT. Mr. Chairman, I thank the gentleman from Maryland for yielding to me. The examples he cited are perfect and the illustration he presented is right on target.

Courts cannot impose taxes. But courts are charged with the responsibility of dealing with the laws we, the House of Representatives, and the Senate, and the Congress of the United States, pass. And when we are dealing with sensitive issues like clean water, which we all depend on, and which the American people want us to protect, we have to make certain that the laws we pass are dealt with in a responsible manner by the courts.

The courts are not going to impose a tax, but the courts are going to say to a given community, for example, you have to stop polluting. And the community is going to decide how it has to stop polluting. I thank the gentleman for the example.

The gutting would occur, the gutting would occur, I would suggest, if we failed to amend section 5.

Mr. YOUNG of Alaska. Mr. Chairman, I move to strike the requisite number of words, and I yield to the gentleman from Illinois (Mr. MANZULLO).

Mr. MANZULLO. Mr. Chairman, the proponents of the Delahunt-Boehlert amendment are trying to draw a fine line between a direct tax and an indirect tax. The effect is the same. The elected representatives still have to raise taxes and is it not interesting, they say, well, this will protect, this will stop courts from raising taxes. In Rockford, Illinois, the judge, the unelected magistrate has ordered the school board to either raise taxes or go to jail.

□ 1230

There is no difference between that and the judge saying, ''I am going to order raising of taxes on my own.'' The original language of section 5 allows both scenarios.

However, the Delahunt-Boehlert amendment removes the second scenario and not only says that the judge cannot directly raise taxes but it still allows the judge to indirectly raise taxes. And as to all the environmental issues and everything else, what our bill says simply is this, to live within our means, to allow remedial plans to come about.

Maryland already has a State law with regard to cleaning up the environment, to cleaning up the waters. All these scare tactics that this will gut environmental laws, this will gut ADA laws, that is not the case. We are simply saying that local communities and elected representatives should not be ordered to go to jail unless they raise taxes. Because the only constitutional function for the Federal raising of tax is the United States Congress and not the Federal judiciary. And that is why it is absolutely important, it is compelling that to make this law have any teeth, we must defeat Delahunt-Boehlert.

Mr. YOUNG of Alaska. Mr. Chairman, I would say just one thing. I was not going to get involved in this argument. But the concept that a judge can raise taxes on the public without due representation is inappropriate.

Secondly, when we hear these scare tactics about clean water and clean air and all these good things in this bill, that is pure nonsense. States have the authority to do this to begin with. The States have the right to do it, and they should do it.

I am going to suggest, I have seen small communities that EPA and other agencies have required to do certain

things and they have gone broke. They have lost their schools, they lost other facilities in the infrastructure because of the agency saying they had to raise certain amounts of money to put in certain standards in that area.

I am suggesting, respectfully, that this amendment is a mischievous amendment that will give back the authority for judges. And I do not particularly like judges to begin with. I want to tell my colleagues right now, especially those that are appointed and have a life expectancy. I think it is also time to let them recognize that the people should be represented in this Congress.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Massachusetts (Mr. DELAHUNT).

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. COBLE. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 230, noes 181, not voting 21, as follows:

[Roll No. 103]

AYES—230

Abercrombie
Ackerman
Allen
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Bass
Bentsen
Berman
Berry
Bilbray
Bishop
Blagojevich
Blumenauer
Boehlert
Bonior
Borski
Boswell
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Burr
Camp
Capps
Cardin
Carson
Castle
Clayton
Clement
Clyburn
Conyers
Costello
Coyne
Cummings
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley
Doyle
Edwards
Ehlers
Engel
Eshoo
Etheridge
Evans
Ewing
Farr
Fattah
Fawell
Fazio
Filner
Forbes
Ford
Fox
Frank (MA)
Franks (NJ)
Frost
Furse
Ganske
Gejdenson
Gephardt
Gilchrest
Gilman
Gordon
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hamilton
Harman
Hefner
Hinchey
Hinojosa
Hobson
Holden
Hooley
Horn
Houghton
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Kanjorski
Kaptur
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Klug
Kucinich
LaFalce
LaHood
Lampson
Lantos
LaTourette
Lazio
Leach
Lee
Levin
Lewis (GA)
Lipinski
LoBiondo
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Martinez
Mascara
McCarthy (MO)
McCarthy (NY)
McDade
McDermott
McGovern
McHale
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Minge
Mink
Moakley
Mollohan
Moran (VA)
Morella
Murtha
Nadler
Neal
Ney
Oberstar
Obey
Ortiz
Owens
Pallone
Pappas
Pascrell
Pastor
Payne
Pelosi
Pomeroy
Porter
Poshard
Price (NC)
Pryce (OH)
Quinn
Rahall
Ramstad
Rangel
Regula
Reyes
Rivers
Rodriguez
Roemer
Rothman
Roukema
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Schumer
Scott
Serrano
Shays
Sherman
Skaggs
Skelton
Slaughter
Smith (NJ)
Smith, Adam
Snyder
Spratt
Stabenow
Stark
Stokes
Strickland
Stupak
Sununu
Tauscher
Thompson
Thurman
Tierney
Torres
Towns
Upton
Velazquez
Vento
Visclosky
Walsh
Waters
Watt (NC)
Waxman
Weller
Wexler
Weygand
White
Whitfield
Wise
Woolsey
Wynn
Yates

NOES—181

Aderholt
Archer
Armey
Bachus
Baker
Ballenger
Barrett (NE)
Bartlett
Barton
Bereuter
Bilirakis
Bliley
Blunt
Boehner
Bonilla
Bono
Brady
Bryant
Burton
Buyer
Callahan
Calvert
Campbell
Canady
Cannon
Chabot
Chambliss
Chenoweth
Christensen
Coble
Coburn
Collins
Combest
Condit
Cox
Cramer
Crane
Crapo
Cubin
Cunningham
Danner
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dreier
Duncan
Dunn
Ehrlich
Emerson
English
Ensign
Everett
Foley
Fossella
Fowler
Frelinghuysen
Gallegly
Gekas
Gibbons
Gillmor
Goode
Goodlatte
Goodling
Goss
Graham
Granger
Hall (TX)
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hilliard
Hoekstra
Hostettler
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Jenkins
Johnson, Sam
Jones
Kasich
Kim
King (NY)
Kingston
Knollenberg
Kolbe
Largent
Latham
Lewis (CA)
Lewis (KY)
Linder
Livingston
Lucas
Manzullo
McCollum
McCrery
McHugh
McInnis
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Moran (KS)
Myrick
Nethercutt
Neumann
Northup
Norwood
Nussle
Oxley
Packard
Parker
Paul
Pease
Peterson (MN)
Peterson (PA)
Pickering
Pickett
Pitts
Pombo
Portman
Redmond
Riggs
Riley
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Royce
Ryun
Salmon
Sanford
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shimkus
Shuster
Sisisky
Skeen
Smith (MI)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stenholm
Stump
Talent
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Traficant
Turner
Wamp
Watts (OK)
Weldon (FL)
Wicker
Wolf
Young (AK)
Young (FL)

NOT VOTING—21

Barr
Bateman
Becerra
Boyd
Bunning
Clay
Cook
Cooksey
Dixon
Gonzalez
Hastings (FL)
Istook
Matsui
Miller (CA)
Olver
Paxon
Petri
Radanovich
Tanner
Watkins
Weldon (PA)

□ 1255

Messrs. CONDIT, DICKEY, KIM, SAM JOHNSON of Texas, and MCKEON changed their vote from ''aye'' to ''no.''

Messrs. COYNE, GUTKNECHT, and EWING changed their vote from ''no'' to ''aye.''

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Mr. MANZULLO. Mr. Chairman, I ask unanimous consent to strike section 5 of the pending bill.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

Mr. FRANK of Massachusetts. Mr. Chairman, reserving the right to object, not having been consulted on something of this importance, we are constrained to object, and so I do now object.

The CHAIRMAN. Objection is heard.

AMENDMENT OFFERED BY MR. CAMPBELL

Mr. CAMPBELL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. CAMPBELL:

Page 9, line 5, and ''and'' after the semicolon.

Page 9, line 9, strike ''; and'' and insert a period.

Page 9, strike lines 10 through 12.

Page 9, line 2, insert after ''remedied'' the following: '', including through its effect on property values or otherwise''.

Mr. CAMPBELL. Mr. Chairman, the passage of the Boehlert-Delahunt amendment makes this amendment less important. But I believe it is still an improvement in the bill.

I am authorized to say that this amendment is agreeable to the majority, agreeable to the chairman of the committee, and agreeable to the author of this provision of the bill.

So in the interest of time, I would be prepared to yield back, unless this is controversial, in which case I will take additional time to explain it. But I have already tried my best to explain it to both sides, and I believe it is not controversial. So in the interest of time, I would yield back.

Mr. FRANK of Massachusetts. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I think it is a very good idea. I have nothing absolutely to add to this debate.

The CHAIRMAN. Are there any other Members seeking recognition on the amendment by the gentleman from California (Mr. CAMPBELL)?

If not, the question is on the amendment offered by the gentleman from California (Mr. CAMPBELL).

The amendment was agreed to.

AMENDMENT NO. 5 OFFERED BY MR. ROGAN

Mr. ROGAN. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 5 offered by Mr. ROGAN:

Strike section 6 and redesignate succeeding sections, and references thereto, accordingly.

Mr. ROGAN. Mr. Chairman, this amendment would involve deleting section 6 from the bill that is before us. Section 6 as proposed would allow parties as a matter of right in a civil case to peremptorily challenge a judge, without any showing of cause, for bias or prejudice. Under current law, a judge may be challenged for cause or for bias, but there must be an actual showing.

□ 1300

My concern, Mr. Chairman, with respect to the proposal that is set forth, is that it would do a couple of things. First, it would increase the likelihood that attorneys will use the new procedure for ''forum shopping''; secondly, it would allow lawyers to put judges in the position where retail justice is being served.

Mr. Chairman, in California, my home State, we have a similar provision already on the books that is being proposed by this current legislation under section 6. Unfortunately it is often used for all the wrong reasons. We have a number of examples in California where judges have been challenged not because of their ability to be fair or to hear a case; they are challenged because of their race, sex, age, political affiliation, or some other factor unrelated to their ability to sit in judgment.

Mr. Chairman, in California when I was a judge, I was present at judicial conferences where judges sat around and polled each other as to what the ''going rate'' was for sentencing in a particular case. Judges knew that if they deviated from the going rate, then attorneys who had the ability to come into court and file a blanket affidavit of prejudice against them would do so, thereby precluding them from hearing either a case, or a class of cases.

I think that we ought to retain the current system where judges may be challenged in cases of actual bias or prejudice. Although I respect the fact that my dear friend, our former colleague from California, Dan Lungren, is in support of the bill in an unamended fashion, I rise because I oppose this one particular provision.

Mr. CANADY of Florida. Madam Chairman, I move to strike the last word.

Madam Chairman, I am not going to oppose the gentleman's amendment although I believe that there is a problem with the current system that needs to be rectified. Under the current system in many cases I believe that litigants who have a reasonable basis for believing that they are not going to be treated fairly by a particular judge do not really have any realistic recourse to have the case moved to be considered by another judge. I do not think the current system is working.

I am not going to oppose this amendment at this time because the version of preemptory challenge to judges that is contained in the bill is a much truncated version of my original bill which I introduced, which followed in a tradition that was started by Representative Drinan many Congresses ago when he introduced a bill to allow for preemptory challenges of judges in criminal cases.

It is my belief that we should have a provision that covers criminal cases, civil cases in districts throughout the country. What is in the bill now, as a result of the work of the Committee on the Judiciary which I respect, is a version that only covers civil cases, it covers certain districts in the country, and I am not very enthusiastic about this version of the bill.

What I would ask the gentleman from California to do is to consider the problems with the current system and to work with those of us on the Committee on the Judiciary who are concerned about those problems for a realistic way of helping ensure that litigants can have confidence that they are going to be treated fairly and not be trapped in the courtroom of a judge who has a bias or who otherwise is not going to treat the particular litigant fairly. I think that is important to everyone.

In the past the American Bar Association has supported efforts along these lines of preemptory challenge. Preemptory challenge may not be the right way to do it, but I am convinced that the current system is fundamentally flawed. At least the way it operates is flawed in many cases, and we need to do something to address that.

Having explained that background, I will not oppose the gentleman's amendment, but I will hope that the gentleman, the gentleman from California (Mr. ROGAN), will be willing to work with us in coming up with ways of addressing the real problems that do exist because what we are looking for is a system that will protect all litigants, a system that will allow everyone going into court to believe that they are going to get a fair shake, not that they are going to get any advantage but that they will not be treated unfairly.

And that is my objection, and I believe that that is the objective of the gentleman from California and all the others who have been engaged on this issue.

Mr. ROGAN. Madam Chairman, will the gentleman yield?

Mr. CANADY of Florida. I yield to the gentleman from California.

Mr. ROGAN. Madam Chairman, first I want to thank my distinguished colleague, the subcommittee chairman, for his comments. And I think that the chairman has hit the nail on the head: there are some procedural defects in what is currently on the books.

I agree that the procedure that was being proposed, a blanket preemptory challenge, is not the best way to deal with this. I would be the first to concede that there are problems with the current system. These problems are as diverse as the personalities of those judges who might be inclined to hear a case. I would be honored to work with my colleague in this particular area to fashion a more appropriate remedy.

So I want to thank the gentleman for his comments and for all the work he has done on this bill.

Mr. CANADY of Florida. Madam Chairman, I thank the gentleman for his comments, and I would extend the same offer to work together to the Democratic members of the Committee on the Judiciary who have opposed the provisions of the bill but who I also believe are concerned about helping ensure that all litigants are treated fairly in cases that are brought in the Federal courts.

Mr. FRANK of Massachusetts. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, I want to, as did the gentleman from California, express my appreciation for the spirit of cooperation that the gentleman from Florida, to say yes. I think this is something we could work on in a cooperative way. I would just like to express my appreciation to the gentleman from California, the gentleman from South Carolina, who joined in this bipartisan effort, and I think it is very likely in the spirit that is developing here we will be able to address these issues. So I welcome this support, I thank my colleagues for the cooperation, and I shut up.

The CHAIRMAN pro tempore (Mrs. EMERSON). The question is on the amendment offered by the gentleman from California (Mr. ROGAN).

The amendment was agreed to.

AMENDMENT OFFERED BY MS. JACKSON-LEE OF TEXAS

Ms. JACKSON-LEE of Texas. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Ms. JACKSON-LEE of Texas:

Add the following at the end of the bill:

SEC. 12. PROTECTIVE ORDERS AND SEALING OF CASES AND SETTLEMENTS RELATING TO PUBLIC HEALTH OR SAFETY.

(a) IN GENERAL.—Chapter 111 of title 28, United States Code, is amended by adding at the end thereof the following new section:

''§ 1660. Protective orders and sealing of cases and settlements relating to public health or safety

''(a) FINDINGS OF FACT REGARDING PUBLIC HEALTH AND SAFETY.—No order entered in accordance with the provisions of rule 26(c) of the Federal Rules of Civil Procedure shall continue in effect after the entry of final judgment in that case, unless at or after such entry the court makes a separate finding of fact that such order would not prevent the disclosure of information which would adversely affect public health or safety.

''(b) RESTRICTION ON AGREEMENTS AMONG PARTIES.—(1) No agreement between or among parties in a civil action filed in a court of the United States may prohibit or otherwise restrict a party from disclosing any information relevant to such civil action to any Federal or State agency with authority to enforce laws regulating an activity relating to such information, unless the court makes a separate finding of fact that such agreement would not adversely affect public health or safety.

''(2) Any disclosure of information described in paragraph (1) to a Federal or State

agency shall be confidential to the extent provided by law.''.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—The table of sections for chapter 111 of title 28, United States Code, is amended by adding at the end the following:

''1660. Protective orders and sealing of cases and settlements relating to public health or safety.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect 30 days after the date of the enactment of this Act and shall apply only to orders entered in civil actions or agreements entered into on or after such date.

Ms. JACKSON-LEE of Texas. Madam Chairman, I appreciate very much the detailing of my amendment because I think if we listen acutely and carefully, we will find that my amendment does represent judicial reform, and the reason is that I am not seeking to take away the discretion of the judiciary or the judge. I am simply saying that I think in support of the right to know of the American people, even if one would argue that we have not determined that secrecy prevails and that judges may assess in their own determination at some time and can be cited sometime that they had determined that in a settlement they would, in fact, allow the facts to be detailed.

We have found that most often secrecy, once it is requested, remains. That creates a dangerous and hazardous set of circumstances for American consumers, American business persons, and generally it interferes with the fairness of having knowledge about anything that can impact negatively on the community.

I want to focus in particular on the language of this amendment. It indicates that a judge is required to make an assessment of whether or not secrecy must be maintained. That means that it allows the judge to go in specifically and assess the facts and decidedly make a determination: Yes, this must remain secret; no, it must not. In that ruling we would hope that the judge would take into consideration the terrible devastation or the blight that would come about by way of not allowing this information to come out.

Let me share with my colleagues an example that bears on health and safety. A case in the United States Court of Appeals for the Fifth Circuit involved litigation of a manufacturer of an artificial heart valve. This manufacturer of heart valves was allowed to keep secret through a court order life threatening defects, even as more of these valves were implanted in patients. None of us want to tolerate that sense of a lack of responsibility. We realize there was a settlement, but in this instance if we take the scales of justice, the weight of the public right to know is a more important right and responsibility than the secrecy of litigation.

I would argue I do think that if we weigh the scales of justice we will find that the higher right and the higher moral ground, along with the balance of the scales of justice, requires that we have a situation where we have an oversight over the overall point of perspective of settlement secrecy.

Let me add one other case. There was a case in the Third Circuit where the manufacturer of a drug that caused internal bleeding, they secured a secrecy order barring the injured consumer's attorney from disclosing this information to a government agency.

I am saying to all of my colleagues, this impacts our quality of life. In 1984 studies indicating the hazards of silicon breast implants were being uncovered. However, because of a protective order, this critical information was hidden from public view and from the FDA until 1992, more than 7 years and literally tens of thousands of victims later. Secrecy in our State and Federal courts undermines the right to know of every American citizen.

Let me now intervene and say it is not open season on secrecy. This particular amendment, if we are truly concerned about judicial reform, simply requires the judge to make a ruling that, yes, this does not impact the public health and safety.

Madam Chairman, I cannot imagine that Americans would not be so concerned as to not ensure that we have the open access to information that would impact their life and safety.

☐ 1315

Secrecy keeps vital health and safety information from consumers. They have a right to know. The confidential settlements of early litigation involving the artificial valves kept life-threatening defects secret, even as more valves were being implanted. Hundreds of patients have died as a result of our failure.

In other cases, doctors have avoided disciplinary charges because court files, which would document negligent care, have been sealed. Secrecy creates more litigation. If you do not have the right to have this information acknowledged, then others are injured.

What does that generate? More litigation. If we are talking about bringing down the cost of what we perceive to be a litigious society, I happen to think everyone has a right to access the court of justice. But if for matter of argument we talk about increased litigation, secrecy helps to increase litigation, no matter what the cause. Business, personal injury, whatever we speak of, if we do not have knowledge and information, we increase litigation.

I would simply say as the American courts operate under the presumption of openness, my amendment enhances that openness. It allows those who feel that there is an element of secrecy that devastates the public safety the opportunity for the judge to rule that, in fact, this information must be presented to the American public and protect the safety and health of Americans.

Mr. COBLE. Madam Chairman, I rise in opposition to the amendment.

Madam Chairman, the tenor here on the floor has gone from discord to harmony. I am not going to bring it back to discord, but I want to at least go on record as resisting the amendment of the gentlewoman from Texas.

The amendment was defeated during the committee markup of the bill. It is opposed by persons interested in privacy issues; as well as the business community, including the National Association of Manufacturers, NFIB; the Chamber of Commerce, and others.

The amendment, it seems to me, would limit the ability of parties to negotiate private settlements and the authorities of a court to seal sensitive information after a final judgment has been reached unless a court makes a separate finding of fact that not revealing the information would not adversely affect public health or safety.

Recent studies, the Harvard Federal Judicial Center, the Judicial Conference, they strongly suggest that protective orders issued under rule 26(c) are not causing health or safety problems. In fact, the Civil Rules Advisory Committee of the Judicial Conference met in March, last month, and determined that no changes to rule 26(c) were needed.

Since many protective orders, and maybe most, are issued in employment discrimination and civil rights cases, the amendment would compromise the privacy rights of individuals, it seems to me. For example, a sealed order regarding medical records of an AIDS patient, for example. The amendment would also jeopardize the proprietary rights of businesses, trade secrets, and other confidential information, which a competitor might want to gain access to such information.

The courts already have rather wide discretion not to issue protective orders or to modify or rescind them. Discovery and the discovery process are designed to encourage parties to share information with each other and to settle, if possible. The amendment, it seems to me, interferes with this process and may well impose a greater strain on limited judicial resources.

Madam Chairman, I urge my colleagues to vote against the amendment.

Mr. CONYERS. Madam Chairman, I move to strike the last word.

Madam Chairman, my dear friend, the gentleman from North Carolina, Mr. COBLE, pointed out this amendment was defeated in subcommittee. Well, that is probably an indication it is a pretty good amendment. But it is important that we know that.

The next thing I should point out to everybody is that this amendment does not apply to civil rights cases. This amendment prohibits orders preserving the secrecy of documents that would adversely affect public health or safety. So, we are all in agreement so far.

So this is an amendment you might want to consider favorably, because when you do not disclose vital health and safety information and keep it out

of the public's reach, we have people that pay dearly; loss of life, as has been referenced by the gentlewoman from Texas.

So these protective orders are dangerous. The artificial heart valves problem with their defects were kept hidden. Hundreds of people died unnecessarily, because the court allowed these records to be sealed.

Then before I yield to the gentlewoman from Texas, I want to raise the problem that might become involved with the tobacco settlement. Look, the court records have hidden thousands of critical documents concerning the strategies used around teenage smoking, minority targeting, nicotine manipulation. You do not want to keep that information secret, do you?

The tobacco industry, bless their hearts, have gone to incredible lengths to keep these documents under wraps. Let us make sure that with this amendment, they will not be able to do that, because the courts are public institutions, and the records and what goes on in the courts should be within the province of the people.

Ms. JACKSON-LEE of Texas. Madam Chairman, will the gentleman yield?

Mr. CONYERS. I yield to the gentlewoman from Texas.

Ms. JACKSON-LEE of Texas. Madam Chairman, I thank the ranking member for yielding. I am glad the gentleman has emphasized this is not and does not have an impact on civil rights cases. Clearly, it points to the question of public health and safety.

Interestingly enough, if we want to clarify the procedural tracking of this amendment in committee, we had unanimous consent on this amendment for a period of time. I do note, and I, too, want to add to the collegiality of the floor debate and say to the gentleman from North Carolina (Chairman COBLE) that I recognize that there are supporters of this bill that are not supporting this particular amendment. Many of them are from the manufacturing and business community.

I would argue that that does not justify opposing this particular amendment, because, in fact, I think it is more important to not get into a discussion between defense attorneys and trial lawyers or plaintiff's lawyers. This has to be a question of the public health and safety and the balance between the scales of justice.

Do you want knowledge about car seats that impact babies to be kept secret, so that those who would have to utilize these seats will not have the opportunity to know the information to prevent future litigation? What about Xomax, the artificial pain reliever that was manufactured in the early 1980s and was found to be dangerous? What about waterslides, where a gentleman fell and slid and broke his neck? Why would we not want the information to be able to provide the consumers with the basis of not having that happen again?

So I really think that we do better to err on the side of allowing the judge, and, again, this is not open season on violating settlements; it is allowing the judge to make an independent assessment that, in fact, you would do damage to public health and safety if you did not open these records.

Mr. CONYERS. Madam Chairman, reclaiming my time, it is an easy ''aye'' vote, and I urge support of the amendment.

Mr. NADLER. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, I rise in support of this amendment. I think it is an excellent amendment.

We have all read in the newspapers of settlements of major lawsuits in which many of the documents in court, the terms of the settlement, are secret. The fact is one of the purposes of our system of justice is to vindicate the public interest and the public safety. The suit in which someone sues a major company because the product they are producing is unsafe, that it is going to cause deaths, and the company settles the suit, and one of the terms of the settlement is that the evidence and the admission, perhaps, that this product is unsafe, or will cause death unless modified; you keep that secret so people do not know it, that does not serve the public interest.

Companies should not be permitted to buy off for cash these kind of safety concerns so that other members of the public will die or be injured. This needs to be in the public domain.

So I commend the gentlewoman from Texas (Ms. JACKSON-LEE) for having the originality and initiative to offer this amendment. I ask my colleagues to vote for it.

Ms. JACKSON-LEE of Texas. Madam Chairman, will the gentleman yield?

Mr. NADLER. I yield to the gentlewoman from Texas.

Ms. JACKSON-LEE of Texas. Madam Chairman, I thank the gentleman for his leadership on many of these issues.

I would like to go back, Madam Chairman, to something that remains sort of controversial even today, but knowing the many breast implant survivors that I have had the opportunity to interact with from a perspective of not trying to do anything more than to bring to the American public that their illnesses, that the impact of the silicone breast implants are not a dream; they are not unreal, they are actually real.

So we are not talking about now the litigation and debate or nonlitigation. What we want to debate is whether or not if we had had this particular provision we would have been able to avoid the tragedies of what we are seeing today with so many victims of silicone breast implants.

For example, in 1984, as I said earlier, and I want to repeat this, studies indicated the hazards of silicone breast implants were being uncovered. Because of a protective order, this critical information was hidden from the public view and from the FDA until 1992, more than 7 years, and literally tens of thousands of victims later.

I would imagine if the business community actually sat down, scratched their head, and took out their pen, it would have been better for this information to be known in 1984 to avoid the thousands upon thousands and millions of women who have been devastated by the silicone breast implant. Knowledge would have avoided the tragedies of 1998.

I also say that with respect to fuel tanks, with respect, as I said, to the heart valves, with respect to a certain lighter that was utilized, as well as certain xerox, asbestos, the Corvair story which we know so full well, these are stories that the American consumers would have far better appreciated or benefitted, if a judge had simply assessed beyond the need of secrecy and the individuals inside that courthouse, to say you have a settlement. But with respect to the violation of the consumer product or the product itself, I believe in making an assessment.

That information should either go to the public or a governmental agency. That is what we are losing if we do not vote for this amendment. I cannot imagine if we are talking about judicial reform that we would not allow a court to make that assessment.

For the response that the rule works all right, what was really said was we have seen no problems. We know a judge will do it if they need do it. Again, I am not doubting the integrity of the judiciary, but this is too high a stake for us to leave it randomly to the arguments of lawyers who would plead to that judge, ''don't you dare,'' and, rightly so, the judge leaves it secret, rather than making an independent assessment that would cause a review of that material to allow just that information, public safety and health, to be allowed to be part of the public right-to-know.

Madam Chairman, with that, I would ask with all due seriousness and call for judicial reform; that this is an amendment that speaks to reform beyond all. I would certainly ask that my colleagues join in voting for this amendment on behalf of the American people's right to know.

Mr. NADLER. Madam Chairman, reclaiming my time, I would add that I hope everyone votes for this amendment. It seems to me this is one of the very few amendments for which the arguments are all on one side. I urge all Members to vote for it.

The CHAIRMAN pro tempore (Mrs. EMERSON). The question is on the amendment offered by the gentlewoman from Texas (Ms. JACKSON-LEE).

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Ms. JACKSON-LEE of Texas. Madam Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 177, noes 242, not voting 13, as follows:

[Roll No. 104]

AYES—177

Abercrombie	Green	Mollohan
Ackerman	Hall (OH)	Moran (VA)
Allen	Harman	Morella
Andrews	Hefner	Nadler
Baesler	Hilliard	Neal
Baldacci	Hinchey	Oberstar
Barcia	Hinojosa	Obey
Barrett (WI)	Holden	Olver
Becerra	Hooley	Ortiz
Bentsen	Horn	Owens
Bereuter	Hoyer	Pallone
Berman	Jackson (IL)	Pascrell
Berry	Jackson-Lee	Pastor
Bishop	(TX)	Payne
Blagojevich	Jefferson	Pelosi
Blumenauer	Johnson (WI)	Poshard
Bonior	Johnson, E. B.	Price (NC)
Borski	Kaptur	Rahall
Boswell	Kennedy (MA)	Rangel
Boucher	Kennedy (RI)	Reyes
Brown (CA)	Kennelly	Rivers
Brown (FL)	Kildee	Rodriguez
Brown (OH)	Kilpatrick	Rohrabacher
Campbell	Kind (WI)	Roybal-Allard
Capps	Kleczka	Rush
Cardin	Klink	Sabo
Carson	Kucinich	Sanchez
Clayton	LaFalce	Sanders
Clement	Lampson	Sawyer
Clyburn	Lantos	Schumer
Conyers	Leach	Scott
Costello	Lee	Serrano
Coyne	Levin	Shays
Cummings	Lewis (GA)	Sherman
Davis (FL)	Lipinski	Slaughter
Davis (IL)	Lowey	Smith, Adam
DeFazio	Luther	Spratt
DeGette	Maloney (CT)	Stabenow
Delahunt	Manton	Stark
DeLauro	Markey	Stokes
Deutsch	Martinez	Strickland
Dingell	Mascara	Stupak
Doggett	McCarthy (MO)	Tauscher
Edwards	McCarthy (NY)	Thompson
Emerson	McDermott	Thurman
Engel	McGovern	Tierney
Eshoo	McHale	Torres
Etheridge	McIntyre	Towns
Evans	McKinney	Velazquez
Farr	McNulty	Vento
Fattah	Meehan	Visclosky
Fazio	Meek (FL)	Waters
Filner	Meeks (NY)	Waxman
Ford	Menendez	Wexler
Fox	Millender-	Weygand
Frank (MA)	McDonald	Wise
Frost	Miller (CA)	Woolsey
Furse	Minge	Wynn
Gejdenson	Mink	Yates
Gephardt	Moakley	

NOES—242

Aderholt	Chenoweth	Foley
Archer	Christensen	Forbes
Armey	Coble	Fossella
Bachus	Coburn	Fowler
Baker	Collins	Franks (NJ)
Ballenger	Combest	Frelinghuysen
Barr	Condit	Gallegly
Barrett (NE)	Cooksey	Ganske
Bartlett	Cox	Gekas
Barton	Cramer	Gibbons
Bass	Crane	Gilchrest
Bilbray	Crapo	Gillmor
Bilirakis	Cubin	Gilman
Bliley	Cunningham	Goode
Blunt	Danner	Goodlatte
Boehlert	Davis (VA)	Goodling
Boehner	Deal	Gordon
Bonilla	DeLay	Goss
Bono	Diaz-Balart	Graham
Boyd	Dickey	Granger
Brady	Dicks	Greenwood
Bryant	Dooley	Gutknecht
Bunning	Doolittle	Hamilton
Burr	Doyle	Hansen
Burton	Dreier	Hastert
Buyer	Duncan	Hastings (WA)
Callahan	Dunn	Hayworth
Calvert	Ehlers	Hefley
Camp	Ehrlich	Herger
Canady	English	Hill
Cannon	Ensign	Hilleary
Castle	Everett	Hobson
Chabot	Ewing	Hoekstra
Chambliss	Fawell	Hostettler
Houghton	Neumann	Shaw
Hulshof	Ney	Shimkus
Hunter	Northup	Shuster
Hutchinson	Norwood	Sisisky
Hyde	Nussle	Skaggs
Inglis	Oxley	Skeen
Jenkins	Packard	Skelton
John	Pappas	Smith (MI)
Johnson (CT)	Parker	Smith (NJ)
Johnson, Sam	Paul	Smith (OR)
Jones	Pease	Smith (TX)
Kanjorski	Peterson (MN)	Smith, Linda
Kasich	Peterson (PA)	Snowbarger
Kelly	Petri	Snyder
Kim	Pickering	Solomon
King (NY)	Pickett	Souder
Kingston	Pitts	Spence
Klug	Pombo	Stearns
Knollenberg	Pomeroy	Stenholm
Kolbe	Porter	Stump
LaHood	Portman	Sununu
Largent	Pryce (OH)	Talent
Latham	Quinn	Tauzin
LaTourette	Radanovich	Taylor (MS)
Lazio	Ramstad	Taylor (NC)
Lewis (CA)	Redmond	Thomas
Lewis (KY)	Regula	Thornberry
Linder	Riggs	Thune
Livingston	Riley	Tiahrt
LoBiondo	Roemer	Traficant
Lofgren	Rogan	Turner
Lucas	Rogers	Upton
Maloney (NY)	Ros-Lehtinen	Walsh
Manzullo	Rothman	Wamp
Matsui	Roukema	Watkins
McCollum	Royce	Watt (NC)
McDade	Ryun	Watts (OK)
McHugh	Salmon	Weldon (FL)
McInnis	Sandlin	Weldon (PA)
McIntosh	Sanford	Weller
McKeon	Saxton	White
Metcalf	Scarborough	Whitfield
Mica	Schaefer, Dan	Wicker
Moran (KS)	Schaffer, Bob	Wolf
Murtha	Sensenbrenner	Young (AK)
Myrick	Sessions	Young (FL)
Nethercutt	Shadegg	

NOT VOTING—13

Bateman	Gutierrez	Miller (FL)
Clay	Hall (TX)	Paxon
Cook	Hastings (FL)	Tanner
Dixon	Istook	
Gonzalez	McCrery	

□ 1351

Ms. McCARTHY of Missouri, Mrs. THURMAN and Mr. BOSWELL changed their vote from ''no'' to ''aye.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

(By unanimous consent, Mr. WELDON of Pennsylvania was allowed to speak out of order.)

ANNOUNCEMENT OF FIRE EMERGENCY IN THE LONGWORTH HOUSE OFFICE BUILDING

Mr. WELDON of Pennsylvania. Madam Chairman, I move to strike the last word.

Madam Chairman, we just experienced what could have been a very tragic incident in one of our House office buildings, and that was a fire which started in the basement of the new elevator shaft that is being constructed, that poured smoke throughout that seven-story complex and required that building to be evacuated for a significant period of time.

Eleven years ago I came on this floor and offered a privileged resolution of the House regarding the health and safety of the Members, because we had a similar fire in then Speaker Jim Wright's office which burned out of control, and to which I had to respond that the buildings that we work in are absolute fire traps because there were no detection devices, no alarm systems, no sprinklers, there was no preplanning, no exit drills. There were no efforts in place to guarantee the safety of both the Members and our constituents.

Today I can rise and report exactly the opposite. In fact the response was quick, it was efficient. The Sergeant at Arms, the Capitol Hill Police, and those brave officers who by the way had to go to the hospital because of smoke inhalation and whose names I will enter into the RECORD today, all performed above and beyond the call of duty.

I might add, however, that Members who were on the seventh floor of Longworth did acknowledge that immediately the alarm system did not go off, and that is the reason why we must continue to press for adequate preplanning and the need for us to understand the severity of the situation.

As I stood there during the entire operation and saw people in wheelchairs and people who were challenged physically coming off the elevators, we come to realize the importance of taking lessons in advance to understand the potential for injury and perhaps even loss of life in these kinds of situations.

So while the story was absolutely a positive one, and Sergeant at Arms Livingood and the Architect of the Capitol, Ken Lauzier and the Chief of the Capitol Hill Police did an absolutely fantastic job with all the various components that we could muster on Capitol Hill, Dr. Eisold's staff to treat those personnel who were, in fact, affected with smoke inhalation, there are some lessons to be learned from this. I would hope that it would remind all of us that we need to understand that life safety, both for ourselves and for our staffs and for our constituents, needs to be a top priority every day this Congress is in session.

Mr. HOYER. Madam Chairman, will the gentleman yield?

Mr. WELDON of Pennsylvania. I yield to the gentleman from Maryland.

Mr. HOYER. Madam Chairman, I thank the gentleman from Pennsylvania (Mr. WELDON) for yielding to me. Madam Chairman, as all of us know, many of us know, the gentleman from Pennsylvania has been one of the leaders on fire service protection not only on Capitol Hill but throughout this country.

He is a former chief of a volunteer fire company of his own congressional district, a former municipal leader. And he did, in fact, raise to a high level of attention, subsequent to the fire in Speaker Wright's office, the necessity to make our buildings more safe for our Members, for our staffs, as well as for the visitors to our offices.

Today's fire in the Longworth House Office Building was a fire that apparently an acetylene torch, I think, heated up some materials that ignited very rapidly and shot flames seven stories high up through the elevator shaft. There was very significant smoke on

the seventh floor. I do not know about other floors, but I heard from my staff on the seventh floor.

What is significant, and I think we all ought to know, is the extraordinarily quick and very skillful response that was given by the Capitol Hill officers, our medical staffs, the Sergeant at Arms' staff, all of those who were called upon to assist in evacuating the building. Some of the officers that were taken out, were taken out because they remained in the building to make sure that the building was, in fact, evacuated by showing great courage to assure the safety of all of those who might be in the building.

In addition, I want to report that my staff reported that the District of Columbia Fire Department was there almost immediately. There has been some criticism of the District of Columbia Fire Department for not responding as quickly as they might, but in this instance they were there very, very quickly.

And I think we owe a debt of thanks to all of those who we rely on day-to-day. As is so often the case, we do not think of them because we are not personally involved, it does not happen, there is not a crisis. And because they are there to respond to domestic crises such as this and we do not have one, we may not acknowledge their presence and their readiness to risk their limbs and their lives to protect their communities.

So I want to join with the distinguished gentleman from Pennsylvania (Mr. WELDON), who has really made it a cause, and a successful one at that, to ensure that we are aware of the risks and take every precaution to avert risks that might have tragic consequences for individuals not only on Capitol Hill, not only in this city, but throughout this country.

So I thank the gentleman for taking this time and thank him for yielding me this time.

Mr. WELDON of Pennsylvania. Madam Chairman, reclaiming my time, just in closing I would mention from the D.C. Fire Department that Battalion Chief Schaefer was the leader. We had Engine Company 13, 2, 8 and 6; Truck Company 7 and 10; Rescue Company 1 and 3; and Battalion 2. They did an absolutely fantastic job.

In addition, I would like to enter the names of those officers who were taken to the hospital. We do not know the status of these officers' conditions. They were all affected by smoke inhalation, but I think it once again underscores the need for us to be aware of the duty and the honor that these people take so seriously in protecting the lives of ourselves and our constituents.

Taken to local hospitals and either treated or currently there for further treatment are Sergeant Givens, Officer Merz, Officer Scott, Officer Worley, Officer Sturdivant, Officer Cleveland and Officer Blackman-Malloy.

□ 1400

We thank all of them. We thank the chief of the department, Chief Abrecht. We thank Bill Livingood for a fantastic job, Dr. Eisold, as well as Ken Lauizer and everyone who came together in doing what should have been the right thing, and that is responding. I would encourage, again, our colleagues to remember that on the seventh floor, the alarm did not go off.

It is our responsibility to make sure if an incident occurs that we have to activate that manual alarm. It does not activate automatically. You have to pull that device down. That was not done on the seventh floor.

Furthermore, I would say this is an opportune time for me to announce that next Thursday at this time, 12 noon, there will be 3,000 firefighters from across the country in the parking lot right outside this door where we will assemble the largest gathering the Nation's fire and EMS community who are coming to us to talk about the fact that they feel we are not doing enough to assist them in their current efforts by our agencies in Washington to deal with the threats of terrorism and the response to those terrorist acts.

I would encourage our colleagues to join with the gentleman from Maryland (Mr. HOYER) and myself as we have a national press conference with the Speaker in attendance and focus on their issues, one week from today at 12 noon directly outside of the House Chambers.

AMENDMENT OFFERED BY MR. NADLER

Mr. NADLER. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. NADLER:

Page 17, strike line 20 and insert the following:

(b) AUTHORITY OF DISTRICT COURTS.—

(1) IN GENERAL.—Notwithstanding—

Move the remaining text on lines 21 through 25 2 ems to the right.

Add after line 25 the following:

(2) OBSCURING OF WITNESSES.—(A) Upon the request of any witness in a trial proceeding other than a party, the court shall order the face and voice of the witness to be disguised or otherwise obscured in such manner as to render the witness unrecognizable to the broadcast audience of the trial proceeding.

(B) The presiding judge in a trial proceeding shall inform each witness who is not a party that the witness has the right to request that his or her image and voice be obscured during the witness' testimony.

Mr. NADLER (during the reading). Madam Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore (Mrs. EMERSON). Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. NADLER. Madam Chairman, I am pleased to offer this amendment along with my colleague, the gentleman from Ohio (Mr. CHABOT). As my colleagues know, this bill would permit cameras into Federal district courts at the judge's discretion. In the past, I have been very concerned, and I have opposed allowing cameras into trial courts because I feared it might intimidate witnesses. It is already intimidating enough for someone who witnesses an accident or a crime, and then sees an appeal on television that the police ask anyone who has seen this or has information please come forward. It is intimidating enough for such a person who knows that if they come forward they may well be asked to testify in court; they may well be subject to cross-examination by an attorney whose job it is to impeach their credibility as a witness, and to make them look foolish. In effect, that is a pretty intimidating prospect.

It is bad enough even if you are only going to be subject to that cross-examination in front of 30 people in the courtroom. But to be subject to that cross-examination perhaps in front of all your relatives, and friends, and wife, and children, and neighbors might be even more intimidating. I have always feared that this might lead to some witnesses not coming forward.

The gentleman from Ohio (Mr. CHABOT) suggested a way out of this dilemma, and I am delighted to join him in offering this amendment. He suggested, and what this amendment does is to say that where you are having cameras in the courtroom in a trial court, any witness other than a party to the action may at his or her request have his face and voice distorted so you cannot tell whose face it is, and you cannot recognize the voice. You can still hear what he is saying on the television so that, yes, this person's name will be known; yes, you can photograph him walking in or out of the courtroom, but he is not, he will have less fear of being made to look foolish in front of his friends on television by the opposing attorney.

This is not the most important thing in the world, but I suspect very much that there are witnesses in this world who will come forward if this is the procedure who might not otherwise come forward if this is not the procedure.

Again, you have cameras in the courtroom. This does not take that away. But it simply allows a witness at the witness' request to have his or her face and voice obscured during the testimony. At the committee, no arguments were offered in opposition so there was some confusion and some Members voted against it. I hope that will not happen on the House floor today.

Mr. CHABOT. Madam Chairman, I move to strike the last word.

I rise in support of the amendment offered by the gentleman from New York (Mr. NADLER) and myself. The amendment gives important protections to witnesses who may be otherwise reluctant to testify in a televised trial by requiring upon request of the witness that the face and voice of the witness be disguised or obscured in such a manner that it will not be evident who that person is testifying. I

think it is a good amendment. I thank the gentleman for offering it.

Mr. COBLE. Madam Chairman, I move to strike the requisite number of words.

I will not consume 5 minutes. As we all know, cameras in the courtroom is an issue adamantly opposed by some; enthusiastically supported by others. This amendment, it seems to me, does no harm. It modifies the cameras in the courtroom approach slightly, but I think there the error is harmless, and I will not resist the amendment, not oppose the amendment.

Mr. FRANK of Massachusetts. Madam Chairman, I move to strike the requisite number of words.

After the passionate appeal of the gentleman from North Carolina, I thought I would try to restore a sense of calm to the Chamber. I also do not regard this as an amendment of enormous significance. I may approach it, however, from the opposite direction. I do not like the underlying provision.

I think requiring witnesses to a trial to be on camera, I think, is a mistake. I think where you are talking about appellate courts, it is reasonable, and I think the Supreme Court of the United States deserves criticism for not allowing its arguments to be run. I can think of few things that would be more useful and more informative for the country than for people to be able to watch Supreme Court arguments.

The notion that the nine Supreme Court justices and members of the Supreme Court bar would somehow be intimidated or thrown off by this is nonsensical. But when you get to witnesses, I think it is a mistake. I am not offering an amendment now; I do not want to take the time in the House. I do think the gentleman's amendment makes a situation that I regard as an unfortunate one a little less unfortunate. I think it is a good idea to have the face obscured.

On the other hand, I do have to say the gentleman said, well, people might be afraid of being made to look foolish. They will still be made to look foolish. They will, however, be made to look foolish with their face obscured. There may be a large number of people in this society who do not mind being made to look foolish, when everyone knows who they are, as long as their faces are obscured. But I think the, okay, put a mask over me and make me look silly group is smaller than my friend may make.

So therefore I would rather not see this at all with regard to witnesses. I do think anybody ought to have a right to object. When you talk about people who are involuntary participants, private citizens, not used to the public debate being thrust into the public this way in a trial, I do not think it is a good idea to require them to be cross-examined, perhaps, and made to look foolish to be there. But that is not the issue now. This is an amendment that, as I said, makes what I regard as an unfortunate situation a little less unfortunate, so I will also vote for the amendment.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from New York (Mr. NADLER).

The amendment was agreed to.

Mr. WATT of North Carolina. Madam Chairman, I move to strike the last word for the purposes of a colloquy with the chairman.

I simply wanted to, in a sense, create a legislative record so that everybody is aware of an interpretation that we are giving to a provision in this bill, and wanted to call the chairman's attention to page 3, section 3 of the bill, and reaffirm with the chairman that it is, in fact, the intention of this bill to allow an immediate appeal either on the granting of a class action motion, or on the denial of a class action motion to assure that this provision in the bill is intended to work in both directions.

Mr. COBLE. Madam Chairman, will the gentleman yield?

Mr. WATT of North Carolina. I yield to the gentleman from North Carolina.

Mr. COBLE. Madam Chairman, the gentleman from North Carolina is precisely correct; that is the intent, to apply to both.

AMENDMENT OFFERED BY MS. LOFGREN

Ms. LOFGREN. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Ms. LOFGREN:

Add the following at the end:

SEC. 12. PARENT-CHILD TESTIMONIAL PRIVILEGES IN FEDERAL CIVIL AND CRIMINAL PROCEEDINGS.

Rule 501 of the Federal Rules of Evidence is amended—

(1) by designating the 1st sentence as subdivision (a);

(2) by designating the 2nd sentence as subdivision (c); and

(3) by inserting after the sentence so designated as subdivision (a) the following new subdivision:

''(b)(1) A witness may not be compelled to testify against a child or parent of the witness.

''(2) A witness may not be compelled to disclose the content of a confidential communication with a child or parent of the witness.

''(3) For purposes of this subdivision, 'child' means, with respect to an individual, a birth, adoptive, or step-child of the individual, and any person (such as a foster child or a relative of whom the individual has long-term custody) with respect to whom the court recognizes the individual as having a right to act as a parent.

''(4) The privileges provided in this subdivision shall be governed by principles of the common law, as they may be interpreted by the courts of the United States in the light of reason and experience, that are similar to the principles that apply to the similar privileges of a witness with respect to a spouse of the witness.''.

Ms. LOFGREN (during the reading). Madam Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentlewoman from California?

There was no objection.

Ms. LOFGREN. Madam Chairman, this amendment is offered by myself and the gentleman from New York (Mr. NADLER) to correct what is a very serious defect in our Federal criminal and civil procedures.

Under our Federal law and the law of many States, children can be compelled to testify against their parents, and parents can be compelled to testify against their children. Although most prosecutors refrain from subjecting a family to this terrible situation, it can and does occur. I have long believed that parents and their children should be shielded from this trauma, and that doing so would not do significant damage to the administration of justice.

Therefore last month the gentleman from New York (Mr. NADLER) and I introduced H.R. 3577, which currently has 18 cosponsors in the House. This bill, the Confidence in the Family Act, is identical to this proposed amendment.

This amendment would ensure that parents and children could not be compelled to testify against one another, and that confidential communications between parents and children will be protected. These privileges would be similar to the privileges currently provided under Federal law to spouses, and would be developed by the courts in light of the common law, reason, and experience.

Rule 501 of the Federal Rules of Evidence states that, except as otherwise required by the Constitution of the United States or act of Congress, the privilege of witnesses, persons, governments, States, et cetera, will be governed by the principles of the common law as they may be interpreted by the courts of the United States.

We went to this development of evidence back in 1975 when the Committee on the Judiciary recommended, and the Congress adopted, the rule that allows our courts to develop the details of privileges and exceptions.

As you note, in the amendment that the development of this exception for parents and children should follow that allowed for spouses. In answer to some questions that Members have had, spouses currently can be compelled to testify against each other in certain circumstances.

For example, threats against spouses and spouses' children do not further the purposes of marital communications, and therefore are not protected from disclosure. Similarly, marital communications subject to the privilege are subject to an exception for crimes committed against a minor child and the rule that one spouse cannot be a witness against the other is subject to exception where one spouse commits an offense against the other. That is U.S. v. Allery.

Why is this important? I think many of us, without going into any of the details, recently observed a situation in which a mother was asked in a very high profile case to testify about confidences that her daughter had placed

in her. When I saw that, and it is not a new thing in the law, I immediately thought of my daughter who is 16 years old, and I thought, could the government force me to reveal what my 16-year-old told to me in confidence? There is something quite wrong about that.

We parents spend most of our lives trying to make sure that our children trust us enough that if they have a problem, if there is something that is troublesome, they always know that they can, and they should, come to their mom and sort through it with us so that we can help them make mature decisions, so that we can help them lead a good life, and come to where they need to be.

If the young people of this country understand, as they currently do now, unfortunately quite well, that the confidences revealed to a parent as we sort through the things that we do in adolescence could be forced out into public view, that important bond, that important value, that family value is unalterably disrupted.

We have talked a little bit about the details and the exceptions to this rule of evidence, but I think it is important to understand why there are exceptions to forcing testimony at all.

□ 1415

We do not force a husband and wife to testify against each other, and the reason why is that we have said that the spousal relationship is so important that we will not allow it to be disrupted by the government for any purpose.

Surely, the relationship between mother and daughter, between father and daughter, between father and son is as valuable, as precious as that between husband and wife.

I hope that the House will look favorably upon the amendment.

Mr. COBLE. Madam Chairman, I rise in opposition to the amendment, and I do so not real comfortably because of the fact that the gentlewoman from California (Ms. LOFGREN) has been a very valuable member of the Committee on the Judiciary and, more specifically, the Subcommittee on Courts and Intellectual Property.

But I say to the gentlewoman from California, there is a matter that probably should have come a little earlier. I realize that we cannot always be perfect as far as timing is concerned. But Rule 501 simply requires a court to observe principles of common law when deciding whether to confer privileged status to an individual or relationship unless an action is civil and involves State law, in which case State law on the matter would be applicable.

A privilege means, as most of my colleagues know, that a court may not compel testimony against a privileged witness or party. For example, many States will not compel a person to testify against his or her spouse or to reveal confidential conversations between them.

The amendment creates a broad privilege that would prevent a court from compelling a witness to testify against a child or a parent of that witness or from revealing confidential conversations between the two. The overwhelming majority of Federal and State courts, Madam Chairman, have rejected such a parent-child privilege.

The Judicial Conference—well, let me say it a different way. I do not mean to say that we should only comply with what the Judicial Conference wants. But we do stay in touch with the Judicial Conference, and the Judicial Conference has not informed the committee that it plans to recommend any changes to Rule 501, which is of some significance I think.

Recognition of a parent-child privilege might prevent a parent from acting in the child's best interest by notifying authorities. Similarly would the alleged benefits of such a privilege outweigh the harm caused by a child whose testimony could not be compelled against a parent indulging, for example, in drug trafficking.

The scope of the privilege is not explained in the Lofgren amendment. I do not think the scope of the privilege is explained in the amendment. For example, would it only apply to unemancipated minors? What about stepparents? What about grandparents?

And I guess I alluded to this earlier, Madam Chairman, that this was not the subject of the subcommittee hearing nor the full committee markup. And I think the idea is, essentially, untested at the State level; and I just do not believe that we can anticipate the consequences of enactment. And I just believe that it is ill-timed, among other reasons that I just mentioned.

Madam Chairman, I yield to the gentlewoman from California (Ms. LOFGREN).

Ms. LOFGREN. Madam Chairman, I recognize that the gentleman from North Carolina disagrees on the substance, but I did want to clarify so as not to mislead in terms of my previous comment. I was referring to line 3 in Rule 501.

''The privilege of a witness, person, government, State or political subdivision thereof shall be governed by the principles of the common law as they may be interpreted by the courts of the United States and in the light of reason and experience,'' is what I meant to refer to so as to avoid any confusion.

And as my colleague notes in the amendment, on line 3, page 2, the amendment suggests to the court that the privileges to be carved out for parent-child should be similar to those with the same exceptions that have been devised for the spousal privilege.

Further, in answer to the question as to foster parents or stepchild, I have suggested, on line 17 on section 3, that such individuals should be included if the court recognizes that the individual is seen as having the right to act as a parent.

Mr. NADLER. Madam Chairman, I move to strike the last word.

Madam Chairman, I rise to support this amendment to protect the parent-child privilege. A few weeks ago, I joined with the gentlewoman from California (Ms. LOFGREN) to introduce a bill to create this privilege in Federal law; and I am proud to support this amendment today.

Frankly, I always assumed it was in the law. It was only when we read about the situation with Ms. Lewis being compelled to testify against her daughter by the independent counsel that I, to my surprise, found there was no such privilege.

This amendment will not affect that situation. That testimony has already occurred. But it will affect the future.

We pride ourselves in this country on the sanctity of the family. It is one of the core, fundamental American values. We encourage our kids to talk to us. We ask them to confide in us, to come to us when they are in trouble. It is not always easy, but I am sure a lot of fellow parents out there will agree with me when I say that developing that bond of trust between parent and child is part of what being a parent is all about.

The concept that a parent could be compelled to testify against his or her own daughter or son is shocking to a lot of people. It is shocking to me. In fact, a lot of people that I have spoken to are amazed that this kind of thing is not illegal already. They have asked, how can we do this in America?

We have decided in our judicial system that certain privileges, certain relationships are sacred. The vast majority of jurisdictions recognize the husband-wife privilege as well as attorney-client and psychiatrist-patient. And, yes, there are cases that would have turned out differently if we could have compelled a psychiatrist to testify about his patient or lawyer against her client or husband against wife or wife against husband. But that is not the kind of judicial system we want, where husbands and wives are compelled to testify against each other except where there has occurred spousal abuse or child abuse or something of that nature. It is not the kind of country we want.

I have long believed that the same sort of privilege should be extended to parents or children. No parents should ever be faced with the agony of being in contempt of court or of testifying against his or her child. No child should ever have to fear that sharing personal information with his parent or her parent could result in a subpoena for his parent.

This amendment would remedy this by establishing this parent-child privilege and would require the Federal courts to establish its boundaries according to the principles of common law as well as the court's own reason and experience.

For the past several years, there has been a lot of talk in this town about family values. I think it is fair to say that this amendment is a test of that.

If we truly respect family values, we must put our money where our mouth is. If we truly respect family values, we must protect the ability of parents and children to have full trust in each other and not fear the court's subpoena to get in between them.

Now, I heard the gentleman a moment ago say that we do not want to prevent parents, that this amendment might prevent parents from notifying authorities in case of crimes or damages. But that is mistaken. It would not. This amendment would only prevent compulsion from the court. It would prevent the court from compelling a parent to testify or a child to testify against his or her parent. It would certainly not prevent the parents from notifying the police or the courts of drugs of or crimes or of danger or anything else that they wanted to notify and thought it advisable to notify the police or other authorities about. It simply would say the court shall not be between a parent and child and compel that testimony.

I think we have to recognize, as to this human relationship we have, if we are ever going to be serious about protecting family values, this is the key. Everything else we do about family values may be wise or not wise, but nothing is more key than enabling a parent and a child to talk under all circumstances without anyone worrying that someone is going to compel the child or the parent to testify in court about the confidences. We want children to be able to confide in their parents and vice versa.

So I very much urge all my colleagues to support this excellent amendment.

Mr. FRANK of Massachusetts. Madam Chairman, I move to strike the requisite number of words.

I rise to disagree with my friend on the general principle, also on one specific. He said, in the course of discussion of good conversations with our parents, we should put our money where our mouth is. My mother always told me never to put any money in my mouth. So I want to be truth to what she taught me.

But I have both substantive and procedural objections to this amendment. I understand that a lot of my colleagues were unhappy with what Kenneth Starr did. I have been often unhappy about what Kenneth Starr did. We might even want to come back after we have adjourned in a special session and call it the Kenneth Starr correction session. Because there are a number of things I would like to do to change some of the things Kenneth Starr has done, beginning with the underlying statute, but not in this manner.

Hard cases make bad law we are told. Well, it can also be bad law if we react too quickly because we have a specific objection to a particular act. I am sorry that he subpoenaed Marcia Lewis. But what if we were talking about a case of murder? What if we were talking about a kidnapping? What if we were talking about a 60-year-old parent and a 35-year-old child? What if the criminal was the 60-year-old parent and the 35-year-old child had valuable information dealing with a serious felony?

This bill extends the privilege equally to a 35-year-old child of a 60-year-old accused criminal as it does to a 35-year-old mother of an 8-year-old child, or vice versa. So, for instance, one of the questions I have and I noted my staff pointed out to me, the State of Massachusetts has such a privilege for minor children only. Now, that is an interesting idea I would like to explore. Maybe there ought to be some kind of privilege for minors. But that is not in this bill.

This bill went through subcommittee. It went through hearing and subcommittee and committee. This is the first I have heard of it. I notice the gentlewoman from California (Ms. LOFGREN) did file this as part of her bill on March 28, the Friday before we went out. It is just not enough time.

This is civil and criminal. Maybe there should be a privilege in civil cases. Although, even in civil cases, I note when I read about insider trading, a crime which a lot of people on my side do not like, that very often those involved in insider trading are relatives, they are adult relatives, the adult stockbroker son of a lawyer father or mother. Well, I do not know that I want to give those people a privilege.

I do not see that there is any problem in saying that adult children and adult parents who are in the financial business can conspire to do inside trading without talking to each other. These are all the issues that ought to be talked about, and they have not been.

I do not think it is a good idea in anger against Kenneth Starr to bring this forward at this point without knowing a lot more about it. Maybe there are Members here who know a lot more than I do about this subject. That would not be hard. But that is precisely the point. I doubt that very many of us are very familiar with this.

The gentleman from New York (Mr. NADLER) acknowledged that he was surprised, as many were, that there was no such privilege. I do not think we should go as a body from ignorance about it, which I certainly had, to within a month or so passing a law that governs every civil case and every criminal case in the Federal system and every parent and every child no matter what their age.

Madam Chairman, I yield to the gentlewoman from California (Ms. LOFGREN).

Ms. LOFGREN. Madam Chairman, I thank the gentleman from Massachusetts for yielding.

I think the point made about hearings is not a balanced one and it is one I have made from time to time on this floor about other bills. We have offered it up as an amendment to this bill because it is germane and because I am reasonably confident that my bill will not be heard.

Mr. FRANK of Massachusetts. Madam Chairman, let me say this. I think the gentlewoman has made something of an assumption that is not fair to the gentleman from North Carolina. I do not see why she would assume that we could not have a hearing on this issue. I would be surprised if the gentleman from North Carolina said at an appropriate time he will not do this.

I will note that, on a bill that has been a bill for less than a month, it certainly would not be fair to criticize, and the gentlewoman was not criticizing. We have only been back in session for about a week and a half. But I think this is something we should be considering. But taking it up on the floor now, when nobody knows much about it, without any of these questions, on a blanket basis, seems to me a very poor way to legislate.

I also want to add again, I disagree at this point. I do not understand why a 40-year-old who may have murdered someone should be shielded from his or her 60-year-old parent testifying. I do not understand that. It is a very different situation if we are talking about a 14-year-old. But having one blanket to cover all of these situations seems to me to be a mistake.

Ms. LOFGREN. Madam Chairman, if the gentleman would yield further, that is a substantive disagreement; and that is fair enough.

I would like to point out, however, in defense of the proposal, even though I understand his valid and thoughtful objection, but the better view in terms of the cases as to criminal activity in the area of spousal privilege is that the privilege does not apply to furtherance of this.

Mr. FRANK of Massachusetts. Madam Chairman, I thank the gentlewoman. As she knows, the better view means, for the nonlawyers, understand my colleague is talking lawyer now, not English. That is not her fault. That is the language.

The CHAIRMAN pro tempore (Mrs. EMERSON). The time of the gentleman from Massachusetts (Mr. FRANK) has expired.

(By unanimous consent, Mr. FRANK was allowed to proceed for 2 additional minutes.)

Mr. FRANK of Massachusetts. Madam Chairman, the better view means more people hold that view than hold the other view. It means more courts have gone one way more than the other. But it also means some courts have gone the other way. So the gentlewoman is agreeing that, under the law to which she would refer us, this is an unsettled question and some judges go one way and some another.

Well, I think if we are going to deal with this kind of privilege, we ought to decide whether we want it to cover murder cases. And, again, what the gentlewoman has here is a blanket provision that applies equally as between

adults who may have conspired together to murder and minor children. And we all think about children. We all think about protecting young children. That is a very valid thing to do.

□ 1430

It seems to me Massachusetts has a good idea by talking differently about minor children. That is not what the gentlewoman's amendment does. To rush into this now and to lock it in would be an emotional response to an understandable provocation, but it would be, I think, an inappropriate way to legislate.

I would say, as the senior minority member of the committee, this is the first time I have heard of this issue, today, yesterday, taking it back to the Committee on Rules. I would be glad to go and lobby my colleague from North Carolina and let us address this issue of privilege. There may be other privileges we want to look at. The question of lawyer/client privilege when the client has died might be a problem. I suppose lawyer/client privilege when the lawyer has died is less problematic, except for Shirley MacLaine.

But, in general, this whole question of privilege could be looked at, but not hastily in reaction to a very politicized situation involving the current Independent Counsel, without many Members knowing what they should about it or having a chance to explore it.

So I urge the Members to vote ''no'' on this, and let us deal with this very, very important issue in a more thoughtful context.

Mr. HYDE. Madam Chairman, I move to strike the requisite number of words.

(Mr. HYDE asked and was given permission to revise and extend his remarks.)

Mr. HYDE. Madam Chairman, I want to join the gentleman from Massachusetts (Mr. FRANK) in his well thought out sentiments because I think he is exactly right. This is an important subject and it is one that deserves thoughtful consideration.

A trial is a search for truth; and when we start asserting privileges, we are putting obstacles to that search for truth. They may well be justifiable, but I think they do impede the quest for learning the facts about a given situation.

We have a spousal privilege. We have an attorney/client privilege. We have executive privilege. We have a Secret Service privilege. Now we are creating a parent and child privilege. The whole subject of privilege is, it seems to me, important and significant and complicated, and perhaps we should look at it in a more thoughtful way than we are doing here.

We missed the priest/penitent privilege. But what we are doing here, the gentlelady's amendment is creating for the first time a Federal privilege, because section 501 of the Federal Rules of Evidence says there are no Federal privileges. We follow the State law. Of course here we are creating for the first time a new privilege: A parent may not be compelled to testify against a child.

I will forgo the opportunity to broaden this discussion as some have by bringing in the name of the Independent Counsel now, but I think it is helpful in this context to note that President Clinton's lawyers deposed Paula Jones' mother, Delmer Lee Corbin, and her sister, Lydia Cathey, in October of 1997. There was no hue and cry about protecting the mother from compulsory testimony.

I think it is worth noting that Colonel North, Oliver North, back in the halcyon days of Iran Contra, his wife was called to testify before the grand jury. Colonel North's lead attorney, Brendan Sullivan, was subpoenaed to appear before the grand jury. Colonel North's wife's sister was interrogated about how much it cost to feed their daughter's horse. The Norths' baby-sitter and a teenager who mowed the Norths' lawn were questioned about how much they were paid. Oh, and Colonel North's minister was asked how much the North family contributed on Sunday.

So we have had these things before. Fortunately, the gentlewoman has become sensitized to the problem somewhat late in this century, but that is all right. But I would suggest that this is inappropriate, and I hope the gentlelady's amendment is defeated.

I hope, and I pledge, as the gentleman from Massachusetts (Mr. FRANK) suggests, that we look at this whole subject across the board on privilege, but try to take it out of the fever swamps of our current political situation.

Ms. LOFGREN. Madam Chairman, will the gentleman yield?

Mr. HYDE. I yield to the gentlewoman from California.

Ms. LOFGREN. Madam Chairman, I just would like to note that I think in 1973, in the 93rd Congress, that the reference, at least the notes from the Committee on the Judiciary note several privileges that were recognized and then followed into rule 501 for future delineation.

I understand that the gentleman's objections are well-stated and sincere, and everyone has respect for his judgment. I would just like to note that I am in my second term. I was not here during Iran Contra to object or to introduce bills about that. I think it is terrible if Mr. North's minister was called by the grand jury.

As to the calling of the mother of the individual referenced, I think that is objectionable as well. I did not know about it until after I introduced this bill.

Mr. HYDE. Madam Chairman, I yield back the balance of my time.

Ms. JACKSON-LEE of Texas. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, although the arguments on the floor opposing the gentlelady's amendment may prove to be somewhat convincing, I would like to take those arguments and turn them around in support of the gentlelady's amendment, and to acknowledge the gentleman from Illinois (Mr. HYDE), the chairman, in recognizing that this is in fact a bipartisan amendment or one that should garner bipartisan support.

The fact that Oliver North's relatives were called, the fact that the President's lawyers deposed the mother of Ms. Jones, does not make it any more right. The issue of parent/child immunity should certainly fall and be given enough or sufficient or equal deference as the patient/doctor privilege, the psychiatrist/patient privilege, the priest's privilege with his religious constituent, and certainly the spousal privilege.

What the gentlewoman is saying, I believe, is that the common law has not responded to the crisis. Putting aside the immediacy of the national attention to the recent set of circumstances, I would argue as an aside that the hauling down, in front of massive media, the horrible evidence of the stress on that particular parent certainly encourages this kind of proposal. It does not take away from it. But it certainly answers a response to any set of circumstances that involves a parent/child, although the gentlewoman's proposal and the proposal of the gentleman from New York (Mr. NADLER) does give an exception if there is criminal fraud or conspiracy. So, therefore, if a parent and child were conspiring to do wrong, there is an exception.

Just a few weeks ago we saw a daring attempt for a mother to help her child escape from jail. I do not think there is any need to worry about whether there is parent/child immunity. The bare facts, the visuals will allow us to convince, I am sure, at some point, though there will be a trial, a jury that something was done wrong, without either the child or the parent being required to testify against each other. There are others who may provide the evidence that would be able to point to the criminal and/or the civil act of wrong.

So I do think that if we talk about all of our expressions of the sanctity of the parent, the child, our brief in the best interest of a child, the relationships of family, I believe that this amendment is one that carries with it the weight of what is right, the moral weight of what is right.

I welcome the opportunity for further hearings.

Ms. LOFGREN. Madam Chairman, will the gentlewoman yield?

Ms. JACKSON-LEE of Texas. I yield to the gentlewoman from California.

Ms. LOFGREN. Madam Chairman, as someone who is steeped in the law and a former judge, I am sure the gentlewoman is aware of the so-called trilemma that lends doubt to the veracity of testimony compelled by a parent against a child. If the parent

faces this dilemma, she can either fudge the truth, she can betray her child's confidences, or she can go to jail. Under those three choices, many prosecutors and many judges have grave doubt about the veracity of testimony, because some parents choose to fudge the truth, the first option.

Ms. JACKSON-LEE of Texas. Madam Chairman, I thank the gentlewoman for that clarification. She is so very right, that in the course of the setting of a trial and a trial atmosphere, it is often doubtful as to whether that parent is totally truthful on the facts. And so I think that the question of whether or not we are moving too quickly on a parent/child immunity, I would hope that we would recognize that we would not do great or enormous injustice or deny justice by providing that privilege.

Mr. FRANK of Massachusetts. Madam Chairman, will the gentlewoman yield?

Ms. JACKSON-LEE of Texas. I yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. Madam Chairman, let me give another example. Two people for whom I have an enormous amount of respect are two people who may be considered to have betrayed the family tie, but they are the Kaczynskis, Ted Kaczynski's brother and mother. They were not compelled, but they came forward. But that is an example. They came forward. Since they came forward, I think lives were saved, innocent lives were saved because they took this dangerous murderer off the streets.

If, in fact, the prosecutor became aware that Mrs. Kaczynski had information that could have led, as it in fact did, to the apprehension of her son, I do not see why we would want to give absolute privilege for a man in his 50s and his mother so that she could not be compelled to testify. In her case it was voluntary, but we could have seen a situation where that compulsory testimony could have been useful.

Yes, where we are talking about a small child, maybe a teenager, it is a very appealing situation. Maybe we ought to tailor a privilege for that. But where we are talking about Ted Kaczynski's mother and Ted Kaczynski, I do not think it is at all immediately obvious that we ought to, on this floor today, to vote to give somebody like that preference.

The CHAIRMAN. The time of the gentlewoman from Texas (Ms. JACKSON-LEE) has expired.

(By unanimous consent, Ms. JACKSON-LEE of Texas was allowed to proceed for 2 additional minutes.)

Ms. JACKSON-LEE of Texas. Madam Chairman, the gentleman is extremely convincing when we are talking about something that is heinous as that of those acts. I think, however, we need to ask the question as to whether or not, and a voice rises up, as to whether or not we know the status of the investigation and whether or not those investigating this heinous crime of the Unabomber would have, even without, would have been able to determine the fact that he was the person and brought him to justice.

I think more often than not we find circumstances where the parent/child relationship really rises above these questions of these very unique heinous crimes. I would simply say that the parent/child relationship, covering over 200 million Americans, we can find more cases than not when we should protect that relationship as opposed to suggest we would be, if you will, tampering or hindering the rights of justice if we did not allow the parent/child immunity. I simply see a range of places where that is important.

I chair the Congressional Children's Caucus. I think that when we talk about promoting children as a national agenda, when we talk about allowing these relationships, I look to it as the bulk of children, if you will, and realize that in cases where we are talking about an adult, I think there are exceptions to inhibit any disallowance of justice.

Ms. LOFGREN. Madam Chairman, will the gentlewoman yield?

Ms. JACKSON-LEE of Texas. I yield to the gentlewoman from California.

Ms. LOFGREN. Madam Chairman, I would just note that all of the modern cases that I have been able to find in the spousal immunity area that would be the guide in the parental/child immunity cases do make exceptions for criminal activity.

I would note also that in the case cited by our colleague, the Kaczynskis, I would join in his admiration of the Kaczynski family that came forward under very trying circumstances and did the right thing and did save lives, and they did it voluntarily. I believe, had they relevant evidence, clearly that since they came forward with the evidence, they would have testified.

The CHAIRMAN. The time of the gentlewoman from Texas (Ms. JACKSON LEE) has again expired.

(On request of Mr. FRANK of Massachusetts, and by unanimous consent, Ms. JACKSON-LEE of Texas was allowed to proceed for 1 additional minute.)

Mr. FRANK of Massachusetts. Madam Chairman, will the gentlewoman yield to me?

Ms. JACKSON-LEE of Texas. I yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. Madam Chairman, my colleague said that there is an exception for criminal, but let me read what might be more relevant here, the title of her amendment as she wrote it: Parent/Child Testimonial Privileges in Federal Civil and Criminal Proceedings. If the gentlewoman in fact intends to exempt criminal, putting ''criminal'' in the title is not the most artful drafting I have ever seen.

Ms. JACKSON-LEE of Texas. Madam Chairman, let me close by simply saying that I really do believe that we have made a very strong argument as to the sanctity of the parent/child relationship. I would commend, as well, the family of the Unabomber, and would say that that is something that probably occurs more regularly than not where parents and relatives come forward because they believe in justice.

□ 1445

In the instance, however, where there is a relationship, parent-child, I cannot imagine that we would diminish parent-child any lower than the priest, the psychiatrist, the physician, the lawyer and anyone else that has now benefited from privilege. And as well let me say that in the criminal sense I do believe that justice will not be denied if we provide this single privilege.

Madam Chairman, I would ask support of this amendment.

The CHAIRMAN pro tempore (Mrs. EMERSON). The question is on the amendment offered by the gentlewoman from California (Ms. LOFGREN).

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

Ms. LOFGREN. Madam Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to House Resolution 408, further proceedings on the amendment offered by the gentlewoman from California (Ms. LOFGREN) will be postponed.

AMENDMENT NO. 4 OFFERED BY MR. DELAY

Mr. DELAY. Madam Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 4 offered by Mr. DELAY:

Add the following at the end:

SEC. 12 LIMITATION ON PRISONER RELEASE ORDERS.

(a) IN GENERAL.—Chapter 99 of title 28, United States Code, is amended by adding at the end the following new section:

§ 1632. Limitation on prisoner release orders

''(a) LIMITATION.—Notwithstanding section 3626(a)(3) of title 18 or any other provision of law, in a civil action with respect to prison conditions, no court of the United States or other court listed in section 610 shall have jurisdiction to enter or carry out any prisoner release order that would result in the release from or nonadmission to a prison, on the basis of prison conditions, of any person subject to incarceration, detention, or admission to a facility because of a conviction of a felony under the laws of the relevant jurisdiction, or a violation of the terms or conditions of parole, probation, pretrial release, or a diversionary program, relating to the commission of a felony under the laws of the relevant jurisdiction.

''(b) DEFINITIONS.—As used in this section—

''(1) the terms 'civil action with respect to prison conditions,' 'prisoner,' 'prisoner release order,' and 'prison' have the meanings given those terms in section 3626(g) of title 18; and

''(2) the term 'prison conditions' means conditions of confinement or the effects of actions by government officials on the lives of persons confined in prison.

(b) CONFORMING AMENDMENT.—The table of sections for chapter 99 of title 28, United States Code, is amended by adding at the end the following new item:

''1632. Limitation on prisoner release orders.''.

(c) CONSENT DECREES.—

(1) TERMINATION OF EXISTING CONSENT DECREES.—Any consent decree that was entered into before the date of the enactment of the Prison Litigation Reform Act of 1995, that is in effect on the day before the date of the enactment of this Act, and that provides for remedies relating to prison conditions shall cease to be effective on the date of the enactment of this Act.

(2) DEFINTIONS.—As used in this subsection—

(A) the term ''consent decree'' has the meaning given that term in section 3626(g) of title 18, United States Code; and

(B) the term ''prison conditions'' has the meaning given that term in section 1632(c) of title 28, United States Code, as added by subsection (a) of this section.

Mr. DELAY. Madam Chairman, I just wanted to say that this is a wonderful debate that we are having. It is great to be part of an institution that is actually trying to regain some of its authority and responsibility that the Founding Fathers envisioned in the Constitution of the United States, and I am offering an amendment with the gentleman from Pennsylvania (Mr. MURTHA) that is, I think, pretty simple. It ends forever the early release of violent felons and convicted drug dealers by judges who care more about the ACLU's prisoners' rights wish list than about the Constitution and the safety of our towns and communities and our fellow citizens.

Under the threat of Federal courts, States are being forced to prematurely release convicts because of what activist judges call prison overcrowding. In Philadelphia, for instance, Federal Judge Norma Shapiro has used complaints filed by individual inmates, criminals, convicted criminals, to gain control over the prison system and establish a cap on the number of prisoners.

Federal Judge Shapiro put a cap on the number of prisoners in Pennsylvania. To meet that cap she ordered the release of 500 prisoners a week, 500 prisoners a week. In a 18-month period alone, 9,732 arrestees were out on the streets of Philadelphia on pretrial release because of her prison cap. They were arrested on second charges, including 79 murders, 90 rapes, 701 burglaries, 959 robberies, 1,113 assaults, 2,215 drug offenses and 2,748 thefts.

How does Judge Shapiro sleep at night? Each one of these crimes was committed against a person with a family, dreaming of a safe and peaceful future, a future that was snuffed out by a judge who has a perverted view of the Constitution.

Of course Judge Shapiro is not alone. We are seeing this all over the United States. There are many other examples. In Texas, my home State, a case that dates back all the way back to 1972, Federal Judge William Wayne Justice took control of the Texas prison system and dictated changes in basic inmate disciplinary practices that wrested administrative authority from staff and resulted in rampant violence behind bars.

And under the threats of Judge Justice, under the threats of Judge Justice, Texas was forced to adopt what is known as the ''nutty release law'' that mandates good time credit for prisoners. Murderers and drug dealers who should be behind bars are walking the streets of our Texas neighborhoods as I speak, thanks to Judge Justice.

Wesley Wayne Miller was convicted in 1982 of a brutal murder. He served only 9 years of a 25-year sentence for butchering an 18-year-old Fort Worth girl. Now, after another crime spree, he was rearrested. Huey Moe was sentenced to 15 years for molesting a teenaged girl. He is eligible for parole this September after serving only 2 years in prison. Kenneth McDuff was on death row for murder when his sentence was commuted. He ended up murdering somebody else.

In addition to the cost to society of Judge Justice's activism, Texas is reeling from the financial impact of Judge Justice's sweeping order. I remember back when I was in the State legislature, 1979, the State of Texas spent about $8 per day per prisoner to keep these prisoners. By 1994, with the full force of Judge Justice's edict being felt in the State of Texas, the State is spending more than $40 every day for each prisoner. That is a fivefold increase over a period when the State's prison system barely doubled. All of that money comes out of our families' pocket.

The truth is, no matter how Congress and State legislatures try to get tough on crime, we will not be effective until we deal with judicial activism.

The CHAIRMAN pro tempore. The time of the gentleman from Texas (Mr. DELAY) has expired.

(By unanimous consent, Mr. DELAY was allowed to proceed for 5 additional minutes.)

Mr. DELAY. Mr. Chairman, the courts have undone almost every major anticrime initiative passed by the legislative branch. In the 1980's, as many States passed mandatory minimum sentencing laws that the American people wanted to see happen around the country to keep these criminals in jail, judges checkmated the public by imposing prison caps on the amount of population that we can hold in prisons. When this Congress mandated the end of consent decrees regarding prison overcrowding in 1995, some courts just ignored our mandate.

There is an activist judge behind each of most of the perverse failures of today's justice system, violent offenders serving barely 40 percent of their sentences. Three and a half million, 3½ million criminals, most of them repeat offenders, are on the streets today and are on probation or parole. Thirty-five percent of all persons arrested for violent crime were on probation, parole or pretrial release at the time of their arrest.

Well, the Constitution of the United States gives us the power to take back our streets. Article III allows the Congress of the United States to set jurisdictional restraints on the courts, and my amendment will set such restraints.

I presume we will hear the cries of court stripping by the opponents of my amendment. These cries, however, will come from the same people who voted to limit the jurisdiction of Federal courts in the 1990 civil rights bill.

Now let us not forget the pleas of our current Chief Justice of the United States, William Rehnquist. In his 1997 year-end report on the Federal judiciary he said, ''I therefore call upon Congress to consider legislative proposals that will reduce the jurisdiction of the Federal courts.'' We should heed Justice Rehnquist's call right here, right now.

The voters will be watching this vote. A vote against this amendment is a vote to put prisoners, convicts, drug dealers and rapists on the streets of my colleagues' congressional districts. Judicial activism threatens the very safety of our children and our constituents, if in the name of justice murderers and rapists are allowed to prowl on our streets before they serve their time. It is time to return some sanity to our justice system and keep violent offenders in jail, and I ask my colleagues to support my amendment.

Mr. FRANK of Massachusetts. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, I listened to the gentleman from Texas describe an amendment that I would be prepared to vote for but I do not see it before me. The gentleman talked about murderers and rapists walking the streets of our districts, and I do not want that to happen. And if it was an amendment that was limited as the gentleman said, I suspect it would get virtually no opposition here, but the amendment is far broader. It is not limited to murderers and rapists, it is not even limited to people who committed violent crimes. It applies to anybody convicted under any felony.

Now there are some nonviolent felonies. There are also situations where prison conditions have been outrageous. The gentleman said we should not release murderers because of overcrowding. I agree. But what about people who might have violated a securities law or people who might have been guilty of nonsupport, if that were a felony, or some other nonviolent felony which we have, insurance fraud. I do not like people committing insurance fraud, but they are not all murderers and rapists. Most of them are probably not. It is probably kind of a distinction in the criminal class.

And it also is not just overcrowding. It says prison conditions means conditions of confinement are the effect of actions by government officials on the lives of persons confined in prison. If in fact there are situations where particular prison officials have behaved in a outrageous fashion abusive of people's rights, may even have put these people in danger, and we are talking about nonviolent felons, I am not prepared to

say that no judge ever ought to let them out.

Now, as I said, if the gentleman had offered the amendment he described, I would not be up on my feet talking about it and I would not expect anyone else to be. If we were talking about violent criminals, particularly murderers and rapists, but muggers and others who were being released surely for overcrowding, I would agree with him.

We have an amendment that goes far broader. It does not just deal with overcrowding. It would immunize prison officials, as it is written, even by actions they took that were violative of people's rights and even for nonviolent criminals. It also is completely retroactive. It says any order now in effect is ended, and I think that would be a very unwise idea.

Mr. DELAY. Madam Chairman, will the gentleman yield?

Mr. FRANK of Massachusetts. I yield to the gentleman from Texas.

Mr. DELAY. Madam Chairman, I appreciate the gentleman yielding. He must be reading a different amendment than I put in. This amendment does not affect any court action brought against prison officials that might violate the criminals' rights or even prison conditions. There are other kinds of remedies that can come into play here.

What we are just saying is do not turn felons out, and surely the gentleman is not for turning felons out, including nonviolent felons like drug dealers, out on the street just because prison conditions may be overcrowded and they could put prisoners in tents.

Mr. FRANK of Massachusetts. No, because the gentleman is wrong in the description of his amendment. In the first place, there are nonviolent felons other than drug dealers. There are people who committed insurance fraud; there are people who cheated on their taxes, their State taxes. I do not say that under no circumstances should they be released because I think they are not the kind of danger that we are talking about to the community in the near term. The gentleman talked about murderers and rapists, but it includes nonviolent felons.

Mr. DELAY. I totally agree with the gentleman.

Mr. FRANK of Massachusetts. And I am glad the gentleman from Texas does, and therefore there is no reason to interrupt me. Let me just say to my friend he should only interrupt me when he disagrees with me. He need not interrupt me when he agrees with me. He should just nod his head and we will all notice that.

But I appreciate the agreement. So we are now in agreement that we are talking about nonviolent felons, and they said including people who may have been convicted of tax fraud or insurance fraud.

Secondly, though, this does say no release could be a remedy because of conditions of confinement or. Now the gentleman says it is only overcrowding, but the word ''or'' apparently means something different to me than it does to the gentleman. ''Or'' generally means there is something else that is involved. It says these insurance fraud perpetrators cannot be released either because of conditions of confinement or because of the effects of actions by government officials on the lives of persons confined in prison.

□ 1500

In other words, if prison officials are grossly violating people's rights, and even people who have committed fraud have rights, as we all agree, even if it is not overcrowded, but if it deals with violations of their rights by conscious acts, one of the remedies cannot be to release people.

The CHAIRMAN pro tempore (Mr. ROGERS). The time of the gentleman from Massachusetts (Mr. FRANK) has expired.

(By unanimous consent, Mr. FRANK of Massachusetts was allowed to proceed for 1 additional minute.)

Mr. FRANK of Massachusetts. Mr. Chairman, I do not think where we are talking about conscious misbehavior that violates the rights of nonviolent criminals. What we are talking about is saying if you have prison officials who are consciously abusing the rights of nonviolent felons, people who have committed fraud, it has nothing to do with overcrowding or violence, under no circumstances should a judge be able to say the remedy is, if you don't stop abusing these people, we are going to make you let them loose. I don't think under all circumstances we ought to say no to that.

Mr. DELAY. Mr. Chairman, will the gentleman yield?

Mr. FRANK of Massachusetts. I yield to the gentleman from Texas.

Mr. DELAY. Mr. Chairman, I agree with the gentleman, but disagree with his interpretation. I have the advantage of not having gone to law school. The advantage is such that nothing stops the inmates' rights to bring action against prison officials. All we are saying here is do not turn these felons out on the street.

The CHAIRMAN pro tempore. The time of the gentleman from Massachusetts (Mr. FRANK) has again expired.

(By unanimous consent, Mr. FRANK of Massachusetts was allowed to proceed for 1 additional minute.)

Mr. FRANK of Massachusetts. Mr. Chairman, I think the issue is not that my friend didn't go to law school, the question is in what language did he not go to law school, because I am talking about English here; not law. What I am talking about is the phrase that says you cannot release nonviolent felons because of the effects of actions by government officials on the lives of persons confined in prison.

In other words, nothing to do with overcrowding, but conscious abuse of people's rights. I do think in some cases where you have got that pattern of abuse, ordering the release of nonviolent felons might be something they may want to consider.

For that reason, while I would have voted the amendment the gentleman described, I cannot vote for the gentleman's amendment as offered.

Mr. SAM JOHNSON of Texas. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I happen to disagree with our previous speaker. The DeLay amendment really corrects a problem that I have spent most of my political career trying to fix.

When I was in the Texas statehouse, I spent a lot of time speaking out against the antics of a judge named William Wayne Justice, a Federal judge who in 1980, single-handedly took control of and weakened the Texas prison system, which I think is a little bit out of line as far as our States rights policies are concerned.

Judge Justice felt our State prisoners were cramped and ''unhappy with their living conditions,'' so he forced Texas to turn jails into country clubs so that dangerous criminals could be more comfortable. He even ordered Texas to provide these criminals with color television. He ordered that 11 percent of Texas prison beds be empty at all times, and mandated that cells built for two prisoners only hold one, and that cells built for four prisoners only hold two.

Consequently, we have got over 5,000 empty beds in the Texas prison system because of a Federal judge's ruling, and that caused overcrowding and it caused extra expense. These mandates have done nothing but set criminals free, increase overcrowding, and waste billions of taxpayer dollars.

I want everyone to understand it is our Texas lawmakers that were forced to release hardened criminals on the order of a Federal judge. This means that criminals have been released back on to the Texas streets, all because a Federal judge was more concerned about the comfort of criminals than about the safety of law-abiding citizens.

This amendment will do what the Texas legislature tried to do and could not; stop Federal judges like William Wayne Justice from pushing their agenda at the expense of public safety. This language states in no uncertain terms that Federal judges cannot mandate early release of violent criminals. It also nullifies current consent decrees like the one inflicted on Texas by Judge Justice.

This is common sense legislation. It is long overdue. The people of Texas have waited 20 years for relief from this Federal judge. Let us not make them wait any longer. I think it is long overdue.

Mr. Chairman, I urge my colleagues to support this amendment, because it is going to make America a lot safer by keeping your violent criminals behind bars.

Mr. MANZULLO. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, what the House is doing today, the House of Representatives, the People's House, is so unique

in history, and it is truly remarkable, because what we are doing today is we are showing that when the Constitution was drafted in 1787, that the men who met in Philadelphia in that year envisioned a system of the separation of powers, and they built into the Constitution a mechanism whereby one branch of government could reclaim the authority that had been usurped by another branch of government, and that is the genius of the Constitution.

We can go back to the Declaration of Independence when Jefferson was asked by Benjamin Franklin, also in Philadelphia, to draft that document and to set forth the reasons for the establishment of this republic. One of the reasons that Jefferson put in the Declaration of Independence is that King George III had obstructed the administration of justice by refusing assent to laws for establishing judiciary powers. In other words, it would be up to the individual colonies, and thus a central government in a new country, to establish and define exactly what those judicial powers are.

So in the Constitution, under Article III, Section 1, Congress was given the express power to ordain and establish inferior Federal courts, which includes the power of vesting them with jurisdiction, either limited, concurrent, or exclusive.

In fact, in a 1943 case, it has been, perhaps, we do not know how many decades, we have arguments here where Congress is trying to get back from judiciary powers that judiciary has taken, and in the case of Lockerty versus Phillips, the court said that Congress has the power to withhold jurisdiction from courts in the exact degrees and character which to Congress may seem proper for the public good.

That is what is exciting about the legislation of the gentleman from Texas (Mr. DELAY). It takes a look at Congress, the elected branch, the representative branch of government, and says we are overseeing the court system to bring about a change when something has happened in the court system that violates the public good.

The public good to which the gentleman from Texas (Mr. DELAY) addresses himself is the fact that courts have overstepped their boundaries by releasing dangerous felons, who go out to kill, and to maim, and to peddle drugs to our little children, who ingest these drugs, and the little innocent ones, my children and children of all Americans, thus become susceptible to more people who the law enforcement people have in good faith put away, but which a Federal judge says they should be out.

So we are here today because the Constitution compels us to do so. It would do no good for me to reiterate the various travesties that have taken place in America because of what the Federal courts have done. But let us look upon this day in this Congress as being a responsible Congress and telling the American people that the courts have gone too far, and that Congress is exercising the jurisdiction and the authority envisioned by the founders of this republic in saying we are going to correct what is wrong with the court system.

Mr. FOLEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, let me strongly support the efforts of the majority whip, the gentleman from Texas (Mr. DELAY), because this amendment goes right to the heart of a horrible situation we in Florida have faced.

In 1993, the Florida Department of Corrections reported that between January 1, 1987, and October 10, 1991, some 127,486 prisoners were released early from Florida prisons. Within a few years of their early release, they committed over 15,000 violent and property crimes, including 346 murders and 185 sex offenses.

Florida tried to stop the early release program last year, the ''gain time'' provision, which was created because of prison overcrowding. But, whoa, the judges said, the courts would not allow them to change it.

The courts suggested that since it was given in advance to create or vacate prison space, that it was now part of their sentence. It did not say when they were sentenced that they were entitled to it, but because it was a mechanism, a management tool created by the legislature, that it had to apply to every person in prison, no matter what crime they committed, whether it was bounced checks, murder or rape.

Now, who is paying for this type of thinking? Who pays for this type of thinking in our society? Let me give you a few examples.

One is a 21-year-old convicted burglar who got out of prison last October on early release. A month later he was charged with kidnapping and murdering a 78-year-old woman in Avon Park near my district. He abducted her from her home, forced her into the trunk of her car, and killed her in an orange grove about 20 miles away.

Then, there is the 30-year-old man jailed in 1989 on grand theft and armed burglary charges, who was released early in 1992 because of prison crowding. Four years later he was charged with murdering the owner of a convenience store in West Palm Beach, Florida, part of which I represent.

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore. Our guests in the gallery will be advised they are guests of the House, but must not express approval or disapproval to interfere with the activities of the House.

Mr. FOLEY. Mr. Chairman, last month a 30-year-old drifter, jailed in 1986 for kidnapping and brutally beating a British tourist in Hollywood, Florida, but released early in 1986, was charged with first degree murder of a teenager after her partially mutilated corpse was found in his bathtub in Miami Beach.

In 1991, in St. Lucie County, which I represent, a Fort Pierce police officer, Danny Parrish, was murdered by an ex-convict who had been released after serving less than a third of his prison term for auto burglary. Officer Parrish stopped him for driving the wrong way on a one-way street. The ex-convict, who admitted later he did not want to go back to prison for violating probation, disarmed Officer Parrish and killed him with his own gun.

Now, when are we in America going to wake up and recognize the rights of victims? I have heard constantly about judges stepping in and allowing prisoners to smoke in prison, prisoners being allowed video machines so they can watch TV, prisoners being given weight rooms so they can exercise and feel comfortable and good about themselves. And the same judges then say because it is a little crowded, we should let these people out early.

So then ultimately, after serving only a third of the time they have been sentenced to, they maim, murder, kill our families and our children, and society pays greatly for these acts. Society pays more for the violence on our street because of early release than we could ever pay for the proper construction of prison facilities.

So I urge my colleagues to look very seriously at this amendment. It is not defeating the judges' power; it is not usurping judicial power. It is asserting, first and foremost, that victims and their families should be given their rights first, not the criminal; that when you are sentenced to prison, it should mean something. When you are given 10 years, it should be 10 years, not 2 years.

When our young people look at the fact that people are being sentenced for 10 years, they should know it is serious. But when you commit a murder and are let out after 3 years of a 10-year sentence; when you are convicted of a crime, and told ''don't worry about it, it is only a year;'' in a recent case where a young girl killed her child, I understand she may get 2½ years in prison. What a punishment.

What does it say to society, the value we place on life. What does it say about the law of the land? What does it say to the law-abiding citizen? You can go ahead and get away with it, because a judge is going to be worried about your comfort in prison; that he will let you out on the street to maim, murder and kill once again?

□ 1515

I know judges do not do this because they do not care about our communities, but Congress has to step into the debate, protect the communities we represent, all 435 of them, and do our best to suggest that if a prisoner commits a crime, if a person victimizes another human being, if a person violates a human being, if a person murders someone else, that that person

should fulfill the full terms of the sentence meted out by the courts, should not be granted special benefits, should not be given game time, and should be treated like the criminals that they are.

I urge the support of the fine amendment of the gentleman from Texas (Mr. DELAY).

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore. The Chair will remind all persons in the gallery that they are here as guests of the House, and that any manifestation of approval or disapproval of proceedings is in violation of the rules of the House.

Mr. WATT of North Carolina. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, this is a very, very difficult issue to debate, because when one postulates the rights of citizens, innocent citizens, against folks who have been sentenced to prison who are released, whether they are released for misdemeanors or felonies or whatever reason, because of prison overcrowding and conditions in prisons, it always seems like you are taking sides with the prisoners, as opposed to taking sides with the innocent people in the street.

The gentleman from Florida (Mr. FOLEY) obviously makes a very, very powerful argument. But an amendment which basically says we are going to go back retroactively and undo existing consent orders that have been entered into, that retroactively says we are going to undo orders that courts have entered in these cases, or even an amendment which, looking forward, says that even though the Constitution might, and we as a body of people in our country believe that nobody, no individual, ought to be put into conditions where they are subjected to rape or disease or whatever by overcrowding or failure of supervision, we cannot enforce that order to protect those people, is an amendment which, in my opinion, goes too far.

That is what this amendment does. It undoes prior consent orders. It undermines prior orders, whether they are consent orders or not. Also, it effectively says that where there is a constitutional violation there really is no remedy for that violation, because we are not going to provide a constructive remedy for somebody who is put in inhumane, overcrowded conditions.

So while I clearly am uncomfortable, and if anybody believes that I am siding with prisoners over victims in the street, I am uncomfortable being in that position, but I think this amendment goes too far.

Mr. DELAY. Mr. Chairman, will the gentleman yield?

Mr. WATT of North Carolina. I yield to the gentleman from Texas.

Mr. DELAY. Mr. Chairman, I appreciate the gentleman yielding. I understand the struggle that the gentleman is going through. I appreciate that.

I just want to remind the gentleman that in 1995 we passed a law, signed by this President, dictating to these judges that they should vacate these consent decrees if they have no further constitutional grounds, and these judges have found loopholes by which they can continue.

Mr. WATT of North Carolina. Let me stop the gentleman in the middle of his sentence, because that is a big ''if,'' if there are no further constitutional grounds. The ones that I am talking about are where there is a constitutional ground. And what this amendment does is say you cannot have a remedy where there is a constitutional basis for the order. So to just kind of gloss over that big ''if'' in the gentleman's sentence is a serious matter.

The CHAIRMAN pro tempore. The time of the gentleman from North Carolina (Mr. WATT) has expired.

(On request of Mr. DELAY, and by unanimous consent, Mr. WATT of North Carolina was allowed to proceed for 1 additional minute.)

Mr. DELAY. Mr. Chairman, will the gentleman yield?

Mr. WATT of North Carolina. I yield to the gentleman from Texas.

Mr. DELAY. Mr. Chairman, first of all, I am not, in my amendment, stopping any other remedies, any other constitutional remedies or the rights of inmates that are being mistreated, overcrowded, or any other prison condition. That is not my amendment.

My amendment basically is saying to judges, stop finding loopholes to continue your consent decrees, and we are going to eliminate the ''if'' part about early release of prisoners. We are not going to put these criminals back on the streets. They can have all the other remedies.

Mr. WATT of North Carolina. Mr. Chairman, if in fact the amendment was nearly as gentle and kind as the gentleman has portrayed it, I think I could get there with him, but that is not what the language of this amendment says. It says, we are undoing prior consent orders, we are undoing prior orders, and we are making it impossible to address a constitutional violation because there is no remedy for it. It is that that I have serious concerns about.

Ms. GRANGER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise today on behalf of families, victims and law-abiding citizens everywhere to support the Judicial Reform Act of 1998, and particularly to support the amendment offered by my good friend, the gentleman from Texas (Mr. DELAY).

I do so because I believe there is a time in the life of every problem when it is large enough to see and yet small enough to solve. The problem of judicial activism is one which we can see and we can also solve, if only we have the commitment and the courage to make it right.

According to the Bureau of Judicial Statistics, every day this year 14 people will be murdered, 48 women raped, and 570 robbed by criminals who have already been caught, convicted, and returned to the streets on probation or early parole.

Mr. Chairman, this is more than a crisis, this is the crime. I believe the first order of our legal system is to protect the innocent, and one way we can do this is to punish the guilty. But we cannot protect the innocent or punish the guilty by putting criminals back on the streets. Yet that is exactly what some judges are doing.

Under the guise of legal apologetics, many judges are giving felons and drug dealers get-out-of-jail-free cards. For example, a U.S. district judge in Philadelphia imposed a prison cap that had the effect of freeing scores of felons and drug dealers who are waiting trial in the prisons. In fact, 600 prisoners a week were released for over 1 year.

What did they do when they got a new lease on life? They committed 79 murders, 959 robberies, 2,215 drug-related crimes, 90 rapes, and over 1,100 assaults. This type of judicial activism is crazy, and it is changing once we pass the DeLay amendment.

Mr. Chairman, the American people want criminals to serve the sentences they are given. They do not want some judge overruling the law, the prosecutors who got them the conviction, or the jurors who sentenced them.

Mr. Chairman, let us not confuse our wants with our needs. We all want to give everyone a second chance, but we absolutely need to ensure that crime does not pay. I urge my colleagues to support the DeLay amendment. It is simple, it is smart, and it is a solution.

Mr. MURTHA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I agreed to cosponsor this amendment with the gentleman from Texas (Mr. DELAY) because I felt it was so important for us to send a message to the court system and to our judicial system that, when a person is sentenced, that person should spend that appropriate time in prison.

Now, I realize there may be some deficiencies in this amendment. I realize if this goes to conference that maybe a few things ought to be changed. But I think one of the reasons that we do not have as much crime as we had a few years ago is because people are staying in jail longer. We put mandatory sentences in.

I worried about mandatory sentences, but the results are the crime rate has dropped dramatically for violent crime throughout the country, and I think it is important for all of us to think about the victims of the crime. One way to make sure that they are separated is to keep them in prison for the time.

They spend a lot of time in thinking about how long the sentences ought to be. If we put them out, drug dealers, a person that commits a violent crime, out on the street prematurely, there is no question in my mind the crime rate will start to go back up again.

So I would urge Members to support this amendment and to vote overwhelmingly to send a message that we do not want people, just because of a technicality, overcrowding, to be out in the street before their time that they have spent in prison.

Mr. DOOLITTLE. Mr. Chairman, I move to strike the requisite number of words.

(Mr. DOOLITTLE asked and was given permission to revise and extend his remarks.)

Mr. DOOLITTLE. Mr. Chairman, I strongly support the DeLay amendment. I think it is a great amendment, and I hope that it survives unscathed through both Houses of the Congress.

This deals with the most fundamental obligation of government, the reason we pay all of the huge amount of taxes that we are having to pay these days. That is, it is the job of government to restrain men from injuring one another, to quote Thomas Jefferson.

It is just unconscionable that these liberal judges, unelected by the people but in office for life, have taken it upon themselves, in some cases, to inflict this kind of injury upon a community. Think of the thousands and thousands of lives that have been ruined, in many cases, or severely impacted in others, by the types of crimes that have been committed.

We did a study in our State legislature years ago, and it was a pretty established fact, as a result of the study, that two-thirds of the forcible-sex felonies are committed by repeat offenders, so that by dealing with this population and incarcerating them for long periods of time, we would dramatically reduce this type of crime. Indeed, that has been the case.

In California and other States where they have had mandatory sentences and where they have long terms, we have spent an awful lot of resources in California locking people up, and we have overcrowded those prisons as much as we could, and I am glad that we have, because it has made our streets safer.

We have now about 130,000 people incarcerated in the State of California alone. Look at our crime rates. They have been dropping dramatically. So taking off the streets this kind of offender was exactly the right thing to do.

Yet to have some isolated, arrogant, liberal, unelected district court judge turning these people loose because of some benighted belief in upholding some prisoner's constitutional rights is totally wrong.

Occasionally, there will be a conflict between the constitutional right of the prisoner and between the right of the public not to have dangerous criminals out in the street. The amendment of the gentleman from Texas (Mr. DELAY) simply says, Judge, do not make your remedy letting them go. You have other remedies. One of them is not to say, let these dangerous people back out on the street.

The public overwhelmingly supports the policy reflected in the DeLay amendment. It is long overdue. I strongly urge its adoption.

Mr. PACKARD. Mr. Chairman, I would like to voice my support for Congressman TOM DELAY's (R–TX) amendment to the Judicial Reform Act, which we will be voting upon shortly. Mr. DELAY's amendment addresses an issue of growing concern—the early release of convicted criminals due to overcrowding in prisons.

By this time we are all well aware of repercussions related to judicial activism. Mr. DELAY's amendment plays an important role in curbing this practice by targeting federal judges who order the release of persons convicted of violent or drug related crimes because of prison conditions. Uncomfortable prison conditions are no excuse for turning dangerous criminals out onto our streets.

Mr. Chairman, I hope that my colleagues will join me in voting in favor of the Judicial Reform Act and the DeLay Amendment.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Texas (Mr. DELAY).

The question was taken; and the Chairman pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. DELAY. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The CHAIRMAN pro tempore. Pursuant to House Resolution 408, the minimum time for electronic voting on the Lofgren amendment, if ordered, without intervening business, will be 5 minutes.

The vote was taken by electronic device, and there were—ayes 367, noes 52, not voting 13, as follows:

[Roll No. 105]

AYES—367

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baesler
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Becerra
Bentsen
Bereuter
Berman
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bono
Borski
Boswell
Boucher
Boyd
Brady
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cannon
Capps
Cardin
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clayton
Clement
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (VA)
Deal
DeFazio
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Etheridge
Everett
Ewing
Farr
Fazio
Foley
Forbes
Ford
Fossella
Fowler
Fox
Franks (NJ)
Frelinghuysen
Frost
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harman
Hastert
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennelly
Kildee
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Markey
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDade
McGovern
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
McNulty
Menendez
Metcalf
Mica
Minge
Mink
Moakley
Mollohan
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Ortiz
Oxley
Packard
Pallone
Pappas
Parker
Pascrell
Pastor
Paul
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Redmond
Regula
Reyes
Riggs
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Ryun
Salmon
Sanchez
Sandlin
Sanford
Sawyer
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Schumer
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Stabenow
Stearns
Stenholm
Strickland
Stump
Stupak
Sununu
Talent
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Thurman
Tiahrt
Torres
Traficant
Turner
Upton
Vento
Visclosky
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
White
Whitfield
Wicker
Wise
Wolf
Woolsey
Wynn
Young (AK)
Young (FL)

NOES—52

Barrett (WI)
Bonior
Brown (CA)
Campbell
Carson
Clyburn
Conyers
Davis (IL)
DeGette
Delahunt
Evans
Fawell
Filner
Frank (MA)
Furse
Hilliard
Hinchey
Jackson (IL)
Jackson-Lee (TX)
Kennedy (MA)
Kennedy (RI)
Kilpatrick
Lee
Lewis (GA)
Martinez
McDermott
Meehan
Meeks (NY)
Millender-McDonald
Miller (CA)
Oberstar
Olver
Owens
Payne
Pelosi
Rangel
Rush

Sabo
Sanders
Scott
Serrano
Skaggs
Stark
Stokes
Thompson
Tierney
Towns
Velazquez
Waters
Watt (NC)
Waxman
Yates

NOT VOTING—13

Bateman
Clay
Dixon
Fattah
Gonzalez
Hastings (FL)
Istook
Meek (FL)
Miller (FL)
Obey
Paxon
Spratt
Tanner

□ 1552

Messrs. BARRETT of Wisconsin, T0WNS, MILLER of California, SKAGGS, and TIERNEY changed their vote from ''aye'' to ''no.''

Messrs. RODRIGUEZ, JEFFERSON, SHAW, REYES, and FORD changed their vote from ''no'' to ''aye.''

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MS. LOFGREN

The CHAIRMAN pro tempore (Mr. ROGERS). The pending business is the demand for a recorded vote on the amendment offered by the gentlewoman from California (Ms. LOFGREN) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will designate the amendment.

The Clerk designated the amendment.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 162, noes 256, not voting 14, as follows:

[Roll No 106]

AYES—162

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barcia
Becerra
Berman
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Campbell
Capps
Carson
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Cummings
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Diaz-Balart
Dooley
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fazio
Filner
Ford
Fox
Frost
Furse
Gejdenson
Gephardt
Gordon
Green
Gutierrez
Hall (OH)
Harman
Hefner
Hilliard
Hinchey
Hinojosa
Hooley
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (WI)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
King (NY)
Klink
LaFalce
Lampson
Lantos
Leach
Lee
Lewis (GA)
LoBiondo
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Markey
Martinez
Mascara
Matsui
McCarthy (NY)
McDade
McDermott
McKinney
McNulty
Meehan
Meeks (NY)
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Mollohan
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Paul
Payne
Pelosi
Peterson (MN)
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Reyes
Rodriguez
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sanford
Schumer
Serrano
Skelton
Slaughter
Stabenow
Stark
Stokes
Strickland
Stupak
Tauscher
Taylor (MS)
Thompson
Thurman
Torres
Traficant
Velazquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Weller
Weygand
Woolsey
Wynn
Yates

NOES—256

Aderholt
Allen
Archer
Armey
Bachus
Baker
Ballenger
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bentsen
Bereuter
Bilbray
Bilirakis
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Boswell
Boyd
Brady
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cannon
Cardin
Castle
Chabot
Chambliss
Chenoweth
Christensen
Coble
Coburn
Collins
Combest
Cook
Cooksey
Cox
Cramer
Crane
Crapo
Cubin
Cunningham
Danner
Davis (VA)
Deal
DeLay
Dickey
Dicks
Dingell
Doggett
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Foley
Forbes
Fossella
Fowler
Frank (MA)
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Goss
Graham
Granger
Greenwood
Gutknecht
Hall (TX)
Hamilton
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Holden
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Jenkins
John
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
Kingston
Kleczka
Klug
Knollenberg
Kolbe
Kucinich
LaHood
Largent
Latham
LaTourette
Lazio
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Livingston
Lucas
Manton
Manzullo
McCarthy (MO)
McCollum
McCrery
McGovern
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
Metcalf
Mica
Moakley
Moran (KS)
Moran (VA)
Morella
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oxley
Packard
Pappas
Parker
Pease
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Ramstad
Redmond
Regula
Riggs
Riley
Rivers
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Salmon
Sawyer
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Scott
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skaggs
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snyder
Solomon
Souder
Spence
Stearns
Stenholm
Stump
Sununu
Talent
Tauzin
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Tierney
Towns
Turner
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Wexler
White
Whitfield
Wicker
Wise
Wolf
Young (AK)
Young (FL)

NOT VOTING—14

Bateman
Clay
Davis (FL)
Dixon
Fattah
Gonzalez
Hastings (FL)
Istook
Meek (FL)
Miller (FL)
Paxon
Snowbarger
Spratt
Tanner

□ 1603

Mr. SAWYER changed his vote from ''aye'' to ''no.''

Mr. ABERCROMBIE changed his vote from ''no'' to ''aye.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. DAVIS of Florida. Mr. Chairman, during roll call vote 106, I was unavoidably detained. Had I been present, I would have voted ''aye'' on the amendment offered by the gentlewoman from California (Ms. LOFGREN).

Mr. HYDE. Mr. Chairman, I move to strike the last word.

(Mr. HYDE asked and was given permission to revise and extend his remarks.)

Mr. Chairman, at this stage, I was about to offer an amendment. I will not offer the amendment, but I think it is important to explain what kind of an amendment it was and why I am not going to offer it.

Mr. Chairman, there are not many of us, a narrow band of Members, but there are some on both sides of the aisle who feel that we mistreat in terms of cost-of-living allowances our Federal judiciary. Now, that is a poisonous subject in some quarters, because judge bashing is a universal sport. But it is a fact, of all the government employees in the galaxy, the only group that does not get an automatic cost-of-living increase is the Federal judiciary.

There is a law, it is called Section 140, that requires a specific vote before any Federal judge gets a cost-of-living allowance. Not a pay raise, a cost-of-living allowance. Even ourselves get an automatic cost-of-living allowance. Under the law, it can be reversed by vote. And, of course, sometimes we succumb to the penurious complaints of Members and deny ourselves a pay raise. But we must take affirmative action to do that.

Not so with the Federal judges. The only way they can get a cost-of-living allowance is by us voting them one. I think isolating Federal judges from all of the other employees in the Federal Government is wrong, it is mean-spirited, it is unfair. And I do believe the quality of justice, which is not of the highest I hasten to add, depends on the caliber of the people administering that justice; and that is the judges, male and female, throughout the land.

We penalize them because they are Federal judges and we are mad at this judge or that judge for a dumb decision and, so, we are going to have the whole system rigged so they are different from everybody else. I think that is unfair.

Now, I have proposed in this bill a judicial reform bill to remove the requirement that Federal judges could not get a cost-of-living increase without a vote to remove that. I learned very late in the day before I was to appear before the Committee on Rules that the rule that would be proposed would be self-executing and would delete Section 9 of my bill, which was my amendment to provide for treating Federal judges like everybody else on cost-of-living allowances. I was upset at that and not having any notification.

But, in any event, I was informed that the reason my bill was going to have that part deleted was that I was creating an entitlement and we do not create entitlements that way. Well, there are ways to handle that, and one is to subject this change to appropriated funds. That would cure that. But nobody was interested in helping me do that in the rule. And I was told if I offered an amendment to that effect on the floor, even though this is an open amendment, that this would not be germane.

Well, we took steps to see that it would be germane by redrafting it. Certain amendments were adopted that broadened the purview of the statute. But that encountered serious resistance. And so, the upshot of all of this folderol about people nobody cares a great deal about, the Federal judiciary, treating them equally with everybody else, although we pretend to support equal justice for all, the upshot of it is, if I persist in my efforts, the bill will go down. And I do not want the bill to go down.

I think this is a good bill. There are some good things in this. And, therefore, I have agreed not to offer my amendment, to bite my lip, and to take the unfair, in my judgment, treatment of an issue that deserves debate on the floor in the vote.

I understand why people do not want this change to occur, because it helps us get a pay raise if we can say the judges are being held back, too. But I do not see why economic politics should deny one group of Federal employees, with all their warts and their flaws, equal treatment.

The CHAIRMAN pro tempore (Mr. ROGERS). The time of the gentleman from Illinois (Mr. HYDE) has expired.

(By unanimous consent, Mr. HYDE was allowed to proceed for 5 additional minutes.)

Mr. HYDE. Mr. Chairman, I yield to the gentleman from Michigan (Mr. CONYERS), the ranking member.

(Mr. CONYERS asked and was given permission to revise and extend his remarks.)

Mr. CONYERS. Mr. Chairman, I thank the chairman of the Judiciary for yielding.

I join my colleague in his sentiments and point out that this is going to take a considerable amount of work to accomplish this delinking. But I think the time has come that judges, as a governmental class, should be able to be entitled to these very modest cost-of-living increases that the rest of people that serve in the government enjoy. I appreciate the efforts of the gentleman.

Mr. HYDE. Mr. Chairman, I yield to the gentleman from Maryland (Mr. HOYER).

Mr. HOYER. Mr. Chairman, I thank the distinguished member of the Committee on the Judiciary for yielding.

There are not many, there are some but not many, who have stood on this floor and either voted for or advocated for the pay raises not only for Federal employees but for Members of Congress than I.

I, however, in this instance, although understanding the concern that some have with respect to impact on Members' pay, want to strongly join the chairman of the committee in his comments with respect to delinking.

Very frankly, my friends, this has to do with whether or not the Congress of the United States has either the courage or judgment to stand and do what I think the overwhelming majority voted to do back in 1989, and that is take a cost-of-living adjustment, not a pay raise, but a cost-of-living adjustment to keep pay even. That is what a cost-of-living adjustment does. It keeps pay even.

Now, if we think we ought not to do that for ourselves, what the Chairman is saying, we ought not to tie in others to that same position, which in my opinion relates not to the equity of pay but relates all to politics. I understand that. I criticize no one for that. But I was going to support the Chairman's inclusion of the delinking in the bill.

Many on my side have not have done that, Mr. Chairman, as my colleagues know. And, frankly, some of my strongest allies on the other side on the pay issue would not have supported it. But I think it is wrong that we continue to keep the judiciary tied to the political vagaries of what this body is willing to do for itself.

Mr. HYDE. Mr. Chairman, I yield to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Chairman, I thank the Chairman for yielding.

I would like to add my concern and willingness to go the extra mile on what I think is an important and crucial issue: Are we going to have the best judicial branch this Nation can afford? And I, too, supported the effort of the Chairman to reflect on our appreciation and respect for the judiciary and the difficulty of their job and position and, likewise, as a newer Member, think that we can defend COLAs no matter who it happens to before, unfortunately, politics do get in the way.

Just about a year ago, one of my senior judges, Judge Norman Black, who, unfortunately, passed away, came and made an eloquent argument, not for self, but for the standing and the quality and the excellence of the judiciary. How can we do any less than to compensate them for this high calling?

So I would just offer to work with the Chairman. I appreciate his position in terms of the overall bill.

□ 1615

But I do believe that we need to have further discussions on this issue and work through it so that we can have the quality of the judiciary that we would like to have and ensure that there is adequate compensation out of the way of the politics.

Mr. HYDE. Mr. Chairman, I yield to the gentleman from Massachusetts (Mr. FRANK).

Mr. FRANK of Massachusetts. Mr. Chairman, I rise to offer my support for the amendment that will now not be offered. But I want to express my admiration to the gentleman from Illinois. Taking the position he is taking so vigorously is not an easy one around here. But I hope Members will listen to what he said, separate out views that Members may have on particular judges and particular decisions from the more important question.

We all agree that there is going to be Federal law. We agree that there is going to be Federal criminal law and Federal civil law. We certainly all agree, I hope, that we want our constituents well served by thoughtful, intelligent people.

We want people who are at the top of the profession in temperament, and intelligence, and ability. Paying them as little as we do is a mistake. We are not going to get justice on the cheap that way, and we do not serve well this cause of justice for our constituents.

The CHAIRMAN pro tempore (Mr. ROGERS). The time of the gentleman from Illinois (Mr. HYDE) has expired.

(On request of Mr. Frank of Massachusetts, and by unanimous consent, Mr. HYDE was allowed to proceed for 1 additional minute.)

Mr. FRANK of Massachusetts. Mr. Chairman, will the gentleman yield to me?

Mr. HYDE. I yield to the gentleman from Massachusetts, certainly.

Mr. FRANK of Massachusetts. We do not serve the cause of justice by confusing unhappiness with particular judges and particular decisions with the functions of the judiciary. The gentleman is making a valiant effort to protect that function. I hope that in some other context those efforts are more successful. I regret, although I understand fully, the situation in which he found himself, that we will not be able to vote on it now.

I will say, as an aside, this does make it an easier decision for me because, had the gentleman offered the amendment and had it been succeeded, I would have been conflicted, but now I can vote against what I think is kind of a silly bill without any problem.

AMENDMENT OFFERED BY MR. CONYERS

Mr. CONYERS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. CONYERS:
Add the following at the end:

SEC. 12. FOREIGN JURISDICTION AND PROCESS.

(a) IN GENERAL.—Chapter 113 of title 28, United States Code, is amended by adding at the end the following new section:

"§ 1697. Foreign jurisdiction; service of process; compliance with rules of discovery

''(a) FOREIGN JURISDICTION AND PROCESS.—In any civil action for harm sustained in the United States, that is brought in a Federal court against a defendant located outside the United States, the court in which the action is brought shall have jurisdiction over such defendant if the defendant knew or reasonably should have known that its conduct would cause harm in the United States. Process in such civil action may be served wherever the defendant is located, has an agent, or transacts business.

''(b) COMPLIANCE WITH RULES OF DISCOVERY.—In any action described in subsection (a), any party who is a citizen or national of a foreign country shall comply with the rules governing the conduct of discovery in the same manner and to the same extent as a party that is a citizen of the United States, except that the deposition of a person who is a citizen or national of a foreign country may be taken only by leave of the court on such terms as the court prescribes.''.

(b) CONFORMING AMENDMENT.—The table of sections for chapter 113 of title 28, United States Code, is amended by adding at the end the following new item:

''1697. Foreign jurisdiction; service of process; compliance with rules of discovery.''.

Mr. CONYERS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request from the gentleman of Michigan?

There was no objection.

Mr. CONYERS. Mr. Chairman, I used to say that my amendment is simple and should be noncontroversial, but I have stopped doing that lately. But this is not a complicated amendment. It changes title 28 to provide for service of process against actions brought against defendant corporations located outside of the United States. It is an amendment that has succeeded before on a couple of occasions, once in a bipartisan vote, and the other in a motion to instruct conferees.

It responds to the problem of service to a foreign corporation by creating a nationwide contacts test whenever a foreign defendant is sued in Federal court if it knew or reasonably should have known that its conduct would cause harm in this country.

This is not a new test. It has been repeatedly upheld by our courts and is in the law already and for other activities. It is similar to the standard adopted last Congress when we amended the Foreign Service Immunities Act to permit actions against terrorist States to proceed in this country.

Secondly, we provide for worldwide service of process. Presently, a big problem with service of process is that each nation requires different methods for process. A uniform worldwide service will fix this problem, and is consistent with our other laws like the Clayton Act, and the securities laws permitting service wherever the defendant can be found.

Finally, my amendment ensures that foreign persons are subject to the same rules of discovery as our own citizens and corporations when they are sued for wrongdoing. Currently, Americans are subject to a cumbersome discovery process which requires involvement of foreign courts and is subject to foreign laws that are designed to thwart discovery process.

Let us continue to create a level playing field so that our American companies are not, in fact, disadvantaged by foreign competitors. It will also help ensure justice for U.S. citizens that might be harmed by a foreign product.

When a foreign automobile is defective, or when fruit imported from out of the country causes widespread disease, or when a halogen lamp made overseas but used in this country explodes, we need to make sure that there is some form of accountability, whether the defendant is located within the United States or not.

So I urge, again, for the favorable consideration of the amendment.

Mr. CANADY of Florida. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Michigan. This is an amendment which was considered by the full Committee on the Judiciary and was not adopted. It is also an amendment that was considered by the full House 3 years ago, I understand, when it was offered as an amendment to the product liability reform bill. It was defeated then. I understand there may have been a conflicting action on a motion to instruct conferees.

I think it is important for the Members to focus on the potential impact of this amendment. I share the concern of the gentleman from Michigan that we act in such a way that we can help ensure that American companies are not subjected to unfair foreign competition. But I think we also have to be very concerned about the potential retaliation by foreign nations if we adopt a provision such as this, that that is a primary concern, I think, that should move us to oppose the gentleman's amendment and see that it is not adopted.

The extent to which American statutes apply to foreign nationals already is a serious point of contention in our foreign relations. I believe it is important that we proceed cautiously in this area. I think additional caution is indicated due to the fact that this amendment has not been the subject of full consideration in hearings.

I agree with the gentleman that this is an area for us to look at, but I do not think that we have adequately evaluated this in order to make sure that we are striking an appropriate balance that is not going to end up actually harming American interests.

I respect the intentions of the gentleman from Michigan. I understand that he is trying to protect American interests. But it is my concern for which I believe that there is a strong basis that the actual impact of this could actually be to harm American interests around the world and to subject American companies, American citizens doing business in other countries to retaliatory action in response to our enactment of this amendment.

In light of those concerns, and with the recognition of the gentleman's good faith in offering this, I would strongly urge the Members of the House to reject the amendment, but I would for myself certainly offer to the gentleman to work with him on this issue and to see if there may be a way that we can strike an appropriate balance where we can help protect American interests without inviting retaliation that could be harmful.

Mr. SKAGGS. Mr. Chairman, will the gentleman yield?

Mr. CANADY of Florida. I am happy to yield to the gentleman from Colorado.

Mr. SKAGGS. Mr. Chairman, I just was curious because I was tracking, I think, the gentleman's logic in this. It seems to me it might extend then to, for instance, opposing the Helms-Burton legislation which has certain extraterritorial effects that run into serious opposition from our friends around the world.

Mr. CANADY of Florida. Mr. Chairman, I thank the gentleman for his insight on that issue. I would suggest to the gentleman from Colorado that there are extraordinary considerations involved there which the House has debated. The House has spoken on that issue along with the Senate, and I might also add along with the administration.

Mr. SKAGGS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I yield to the distinguished gentleman from Michigan (Mr. CONYERS), the ranking member.

Mr. CONYERS. Mr. Chairman, I would want to say to my friend from Florida, we need to work on this some more, but what more work does the gentleman have in mind? This is no different from the committee amendment. We have gone through this in the Committee on the Judiciary. That is the only way it got out to the floor.

Mr. CANADY of Florida. Mr. Chairman, will the gentleman yield?

Mr. SKAGGS. I yield to the gentleman from Florida.

Mr. CANADY of Florida. Mr. Chairman, it is true we went through it in the Committee on the Judiciary, and the amendment was defeated. It was rejected by the committee. Obviously, that is why we are here debating it today.

Mr. CONYERS. Yes, it was defeated in the committee; but with no derogatory reflection on the committee. It was passed in the House by a vote of 258 to 166, and then it was approved by an even larger motion to instruct conferees by 256 to 142, February 29, 1996.

If the gentlemen are suggesting that I have got to pass an amendment in the Committee on the Judiciary before I can pass an amendment that has already passed on the floor, we maybe ought to reconsider the way that Congress works. Notwithstanding the Members in the committee, this is a very popular motion.

Let us talk about the problems that one might examine here. First of all, I do not want to put the gentleman into a not wanting to protect American interests like the majority of us do. I know he does. I would argue that for anybody. But there is no retaliation. We are the ones that are being disadvantaged already.

What I am doing is trying to level the playing field. The fact of the matter is that Americans cannot reach foreign corporations because we are tied up by their laws of service, their laws of discovery, their laws of bringing them into litigation.

All I am saying is that foreign corporations, if and when they may be the subject of litigation, would be subject to no less rules of procedure than American corporations.

How that would antagonize a foreign corporation benefiting from American sales, and by the way, guess who buys the most from everybody in the world? So there is no way that we could make them angry and they would take their products away from us. I do not think that is going to really work. So please, please, sir, realize that this is very critical to American citizens, our constituents, who are trying to seek some recovery.

Now, it just occurred to me, I mentioned halogen lamps. You know, the greatest jazz musician in America, aged 90, Lionel Hampton, had his whole apartment destroyed because of a halogen lamp. I do not know whether it was made in or out of the U.S., but there was going to be a big suit, and they, fortunately, resolved it.

But if it had gone to litigation, if it had been a foreign corporation, Lionel Hampton may not live long enough to ever see anything happen to it, because he would have to go along with the civil rules of procedure for whatever company, for whatever country the company originated in.

All I am saying is let us have everybody play by the same set of rules. So if we could get another vote on it, and everyone is of the same opinion that they were 2 years ago, 1 year ago, I would be very grateful.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Michigan (Mr. CONYERS).

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

Mr. CONYERS. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN pro tempore. Pursuant to House Resolution 408, further proceedings on the amendment offered by the gentleman from Michigan will be postponed.

The point of no quorum is considered withdrawn.

□ 1630

AMENDMENT OFFERED BY MR. ADERHOLT

Mr. ADERHOLT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ADERHOLT:

Page 8, line 15, insert ''or to disburse any funds to remedy the deprivation of a right under the Constitution,'' after ''tax,''.

Page 8, line 21, strike ''or assessment'' and insert ''assessment, or disbursement''.

Page 9, strike lines 1 through 24 and insert the following:

''(C) the tax or assessment will not contribute to or exacerbate the deprivation intended to be remedied, including through its effect on property valves or otherwise;

''(D) plans submitted to the court by State and local authorities will not effectively redress the deprivations at issue; and

''(E) the interests of State and local authorities in managing their affairs are not usurped, in violation of the Constitution, by the proposed imposition, increase, levying, or assessment.

''(2) The limitation contained in paragraph (1) shall apply only to any order or settlement which—

''(A) expressly directs any State, or political subdivision of a State, to impose, increase, levy, or assess any tax or disburse any funds to remedy the deprivation of a right under the Constitution; or

''(B) will necessarily require a State, or political subdivision of a State, to impose, increase, levy, or assess any tax or disburse any funds to remedy the deprivation of a right under the Constitution.

''(3) If the court finds that the conditions set forth in paragraph (1) have been satisfied, it shall enter an order incorporating that finding, and that order shall be subject to immediate interlocutory de novo review.

Page 10, line 7, insert after ''tax,'' the following: ''and any person or entity that is a resident of the State or political subdivision that would be required to disburse funds under paragraph (1) shall have the right to intervene in any proceeding concerning such disbursement,''.

Page 10, line 16, insert '', or disburse the funds,'' after ''tax''.

Page 10, line 21, insert '', or the disbursement of funds,'' after ''tax''.

Page 10, line 25, insert ''or the disbursement of funds, as the case may be'' after ''tax''.

Page 11, line 10, insert '', or a disbursement of funds that is made,'' after ''imposed''.

Mr. ADERHOLT (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore (Mr. ROGERS). Is there objection to the request of the gentleman from Alabama?

There was no objection.

Mr. ADERHOLT. Mr. Chairman, today I have come to the House floor to call for an end to the unlimited power of Federal judges to legislate from the Federal bench and then send State and local taxpayers the bill. I want to make certain that Federal judges like some in Alabama, like Judge Ira DeMent, so they cannot use the people's hard-earned tax dollars for things like court-appointed prayer monitors and sensitivity training for teachers on how to keep prayer out of schools.

In Dekalb County, Alabama, which I am privileged to represent, the Fourth Congressional District, Judge DeMent has been decided to be a legislator and appropriate from the Federal bench. He ordered county school funds that should be going to the classrooms to go to pay for court-appointed monitors who will go into the schools and to make sure that there is no prayer.

Although I disagree with Judge DeMent's ruling, there may be some here today who agree with it, but when a Federal judge has free rein to take control and take local school funds away from local officials and then use them to pay for whatever he deems necessary, that is going too far. We need to have checks and balances. Our Nation was founded on this principle, and unfortunately we have drifted far away from this. Taxation without representation has been a cause for revolt in this country since the beginning of the American Revolution, and we are still fighting this battle today.

This amendment that I am offering today would re-insert and clarify the original language in section 5 of H.R. 1252 to ensure that certain criteria are met before the courts can disburse existing local and State taxpayer dollars in constitutional cases. The underlying bill has stated that a judge must meet certain criteria in order to raise or assess taxes. My amendment will give Federal judges the same pause for thought before using existing State and local revenues in constitutional cases.

This amendment does not say a Federal judge can never use State and local funds, it merely states that before he acts he must make sure that he is doing the right thing.

An unelected official should not be allowed to impose a tax on the people without first giving careful consideration to their actions. Likewise, if a Federal judge takes away local resources to enforce a ruling, especially in constitutional cases, there need to be protections built into the system to ensure that judges do not overstep their bounds and make decisions that are clearly out of the scope of their authority.

Using existing funds collected from honest taxpaying citizens for purposes that a judge who has clearly over stepped his bounds, they should be prohibited, and that is what my amendment aims to do.

I urge my colleagues to put a stop to the court systems in America that are running amok and vote in favor of my amendment to H.R. 1252.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Alabama (Mr. ADERHOLT).

The question was taken; and the Chairman pro tempore announced that the ayes appeared to have it.

Mr. SKAGGS. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to House Resolution 408, further proceedings on the amendment offered by the gentleman from Alabama (Mr. ADERHOLT) will be postponed.

AMENDMENT OFFERED BY MR. SKAGGS

Mr. SKAGGS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SKAGGS:

At the end of the bill, add the following new section:

SEC. COURT SETTLEMENT SUNSHINE.

(a) SHORT TITLE.—This section may be cited as the ''Federal Court Settlements Sunshine Act of 1998.''

(b) REQUIREMENTS REGARDING SETTLEMENT OF CASES.—Chapter 111 of Title 28, United States Code, is amended by adding at the end the following:

''SEC. 1661. PUBLIC AVAILABILITY OF SETTLEMENTS OF CASES.

''Any settlement made of a civil action to which the United States, an agency or department thereof, or an officer or employee thereof in his or her official capacity, is a real party in interest, shall not be sealed, but shall be made available for public inspection, unless the court determines that there is a compelling public interest in limiting such availability. Any such determination shall be made in writing and shall explain the basis for the determination.''

(c) CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 111 of title 28, United States Code, is amended by adding at the end the following new item:

''Sec. 1661. Public availability of settlements of cases.''

Mr. SKAGGS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as having been read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Colorado?

There was no objection.

Mr. SKAGGS. Mr. Chairman, I appreciate the opportunity to bring this issue to my colleagues, but in doing so I want first to apologize to particularly the chairmen of the committee and the subcommittee for not having brought this to them before we started debate on this on the floor today. It is not a process that I would normally want to follow and certainly not one that they want to have followed.

But this is a matter that actually was heard in a Judiciary subcommittee a few years ago and reported out. It basically would provide that in any civil case in which the United States, an agency of the United States or a officer of the United States is a party in interest, that any settlement entered into in such a case would in the normal course have to be made available to the public, public information, unless the presiding judge entered an order finding that there was a compelling public interest in sealing the settlement papers and making them secret.

Certainly at a time when there is a lot of discussion about the need for more open and accountable government, I believe that moving in this direction with the Federal courts is an appropriate thing to do.

We are all well aware that agencies in the United States Government are involved in litigation routinely around the country involving all manner of important public issues, whether Superfund matters, consumer products issues, whatever. Frequently these cases are settled and the judge considering the settlement is requested to seal the settlement; that is, block any public disclosure. The reason for sealing these settlements can range from just avoiding embarrassment to protecting trade secrets and a number of things, some of them quite legitimate and offering a compelling public interest reason for sealing the information.

But I think it is important and therefore this amendment would create a presumption that in cases in which the United States Government is a party, that the public's right to know should be respected, again absent a presentation of reasons to seal a settlement and absent a determination by the court on a reasonable basis that there is good reason to withhold the terms of the settlement from the public. This is the public's business. Often large sums of money or important matters of public policy can be at stake, so I think it is only right that we all have a chance to see what kind of settlement arrangements our national government has entered into.

I know my colleagues may recall back to the savings and loan debacle days. In Colorado there was a settlement in the old Silverado case involving something like a billion dollars, but that settlement was sealed and the people of Colorado and the country never had any opportunity to find out exactly what was going on there. I do not think that is the kind of presumption that creates and supports public trust and confidence in the courts, so I hope that this is an amendment that is reasonably drawn for a good purpose and can earn the support of my colleagues.

In the hearing that was held on this amendment some years ago before it was passed out of the same subcommittee that brings this bill to the floor, one Federal district judge who testified in support of the bill characterized this kind of public accountability as, quote, the very essence of justice is that it is public. I think that ought to inform our treatment of this matter, and I ask my colleagues' favorable consideration.

Mr. CANADY of Florida. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Colorado (Mr. SKAGGS).

Mr. Chairman, I am sorry to disappoint my friend and colleague from Colorado in opposing the amendment, but as the gentleman noted at the outset, this is an amendment which we on the Committee on the Judiciary have really not had an opportunity to fully evaluate.

I am sympathetic to the concerns underlying the amendment, and although I will have to say that this debate to a certain extent has already taken place in connection with the Jackson-Lee amendment that was offered earlier, obviously the gentleman's amendment is more restricted in that it focuses on settlements involving the Government of the United States, whereas the Jackson-Lee amendment was much broader than that. But, notwithstanding that, I am concerned that this amendment would in its present form serve to discourage settlement of cases by the government and could result in the disclosure of information which should not be disclosed, which could cause unnecessary embarrassment to innocent individuals.

There is also a potential, as the gentleman recognized, for disclosure of proprietary information. I believe the gentleman's position would be that his amendment would not require the disclosure of proprietary information. I am not certain that that is clear from the terms of the amendment, however, so that is a concern.

I think another point to make in connection with this is that the Civil Rules Advisory Committee of the Judicial Conference has recommended that there be no changes to rule 26(c) regarding protective orders, and I do not always agree with the Judicial Conference.

Mr. FRANK of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. CANADY of Florida. I yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. I would just note that the gentleman never agrees with the Judicial Conference.

Mr. CANADY of Florida. Well, occasionally.

Mr. FRANK of Massachusetts. Except now.

Mr. CANADY of Florida. Occasionally we agree with the Judicial Conference. The Judicial Conference has looked at this, and they have decided that there is no compelling need for a change in the rule.

Another point that I think we should consider is that the sort of public matters and settlements by government agencies that the gentleman is concerned about are subject to ongoing oversight by the Congress of the United States. I think that that is an appropriate area for us to be involved, and I believe that to the extent that there may be problems with respect to settlements that are entered into by government agencies, it is our responsibility in the Congress to conduct oversight with respect to those matters. I believe that that avenue of bringing public scrutiny to settlements is a valuable check on potential abuses in this area.

So for all of these reasons I would urge the Members of the House to reject the gentleman's amendment. Again, as with the earlier amendments, I as a member of the Subcommittee on Crime would be happy to work with the gentleman in addressing his concerns.

There may be a way that could be more narrowly tailored and targeted which would help ensure that the public interest is protected, and that all

the other concerns that we have are adequately covered so that we are not compromising the values that we seek to protect. We may be able to craft an approach that would take all those things into account and would be balanced and would deserve passage by the House, but I do not think we are there yet with this particular amendment, so I would urge the Members of the House to reject the amendment.

Mr. FRANK of Massachusetts. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, as it has been said that patriotism is sometimes the last refuge of scoundrels, invocation of the Judicial Conference is the last refuge of my friend from Florida. He is rarely to be found on the same side of an issue as the Judicial Conference, he is rarely to be found on the same side of the hemisphere as the Judicial Conference, and when the gentleman from Florida invokes the Judicial Conference it is a simple affirmation of the principle that nature abhors a vacuum. Into the vacuum of arguments that my friend had rushes a reference to the Judicial Conference. The fact that he who ordinarily disagrees with it invokes it shows this is a pretty good idea. Not only is it a pretty good idea, but it is one that is hard to object to.

The gentleman's amendment is quite moderate, the gentleman from Colorado. It says if a judge decides there is a compelling reason not to make this public, the judge can do that. But the rule ought to be, the assumption ought to be that the public will know about public business.

I am surprised, frankly, at some of my conservative friends. Conservatives have traditionally distrusted the executive. For them to be not wanting to require the executive to make clear the terms of any settlement which in the nature of the case would exclude the legislative body but be an executive decision surprises me. So I rise in support of the amendment.

Mr. Chairman, I yield to the gentleman from Colorado (Mr. SKAGGS) the author of the amendment.

□ 1645

Mr. SKAGGS. Mr. Chairman, I appreciate the comments made by my friend from Florida about other ways of getting at the problem. I think it is a bit not quite sufficient to the issue to suggest that any problems along these lines, of course, would be susceptible to Congressional oversight and intervention by us. That can happen in a fairly haphazard fashion, as I think the gentleman is aware.

But this really comes down to a pretty fundamental question, which is do you think the business of the United States courts, when involving the United States itself as a party, ought to be presumptively public business or not, yes or no, subject to the discretion of a judge, employing a reasonable standard to determine whether there are countervailing interests to that presumption of the public business of the public courts being public?

If the gentleman is uncomfortable with that proposition, obviously he will vote against the amendment. But I think it is a fairly straightforward one, and one I was quite proud, for instance, to have the cosponsorship and support of the now chairman of the Committee on the Judiciary when this was reported out of the subcommittee that the gentleman is now a member of a couple of years ago.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Colorado (Mr. SKAGGS).

The amendment was rejected.

SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The CHAIRMAN. Pursuant to House Resolution 408, proceedings will now resume on those amendments on which further proceedings were postponed in the following order:

The amendment offered by the gentleman from Michigan (Mr. CONYERS), and the amendment offered by the gentleman from Alabama (Mr. ADERHOLT).

The Chair will reduce to 5 minutes the time for any electronic vote after the first vote in this series.

AMENDMENT OFFERED BY MR. CONYERS

The CHAIRMAN. The pending business is the vote on the amendment offered by the gentleman from Michigan (Mr. CONYERS) on which further proceedings were postponed, and on which the noes prevailed by voice vote.

The Clerk will designate the amendment.

The Clerk designated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 200, noes 216, not voting 16, as follows:

[Roll No. 107]

AYES—200

Abercrombie
Ackerman
Allen
Andrews
Baesler
Baldacci
Ballenger
Barcia
Barrett (WI)
Becerra
Bentsen
Berman
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Capps
Cardin
Carson
Chabot
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Cummings
Danner
Davis (FL)
Davis (IL)
Deal
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley
Doyle
Duncan
Edwards
Ehrlich
Engel
English
Ensign
Eshoo
Etheridge
Evans
Farr
Fazio
Filner
Ford
Frank (MA)
Franks (NJ)
Frost
Furse
Gejdenson
Gephardt
Green
Gutierrez
Hall (OH)
Hamilton
Harman
Hefner
Hilleary
Hinchey
Holden
Hooley
Hoyer
Hunter
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (WI)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Kucinich
LaFalce
Lampson
Lantos
Lee
Levin
Lewis (GA)
LoBiondo
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McHugh
McIntyre
McKinney
McNulty
Meehan
Meeks (NY)
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran (VA)
Morella
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pappas
Pascrell
Pastor
Payne
Pelosi
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roemer
Roybal-Allard
Rush
Sabo
Salmon
Sanchez
Sanders
Sandlin
Sawyer
Schumer
Scott
Serrano
Sherman
Skaggs
Skelton
Slaughter
Smith (MI)
Smith, Adam
Snyder
Spratt
Stabenow
Stark
Stearns
Stokes
Strickland
Stupak
Tauscher
Taylor (MS)
Thompson
Thurman
Tierney
Torres
Towns
Traficant
Velazquez
Vento
Visclosky
Wamp
Waters
Watt (NC)
Waxman
Weygand
Wise
Woolsey
Wynn
Yates

NOES—216

Aderholt
Archer
Armey
Bachus
Baker
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bereuter
Bilbray
Bilirakis
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Boyd
Brady
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Castle
Chambliss
Chenoweth
Christensen
Coburn
Collins
Combest
Cook
Cooksey
Cox
Cramer
Crane
Crapo
Cubin
Cunningham
Davis (VA)
DeLay
Diaz-Balart
Dickey
Doolittle
Dreier
Dunn
Ehlers
Emerson
Everett
Ewing
Fawell
Foley
Forbes
Fossella
Fowler
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Greenwood
Gutknecht
Hall (TX)
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilliard
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hutchinson
Hyde
Inglis
Jenkins
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King (NY)
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Livingston
Lucas
Manzullo
McCollum
McCrery
McDade
McInnis
McIntosh
McKeon
Metcalf
Mica
Moran (KS)
Murtha
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oxley
Packard
Parker
Paul
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Ramstad
Redmond
Regula
Riley
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Royce
Ryun
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Shimkus
Shuster
Sisisky
Skeen

Smith (NJ) Talent Watts (OK)
Smith (OR) Tauzin Weldon (FL)
Smith (TX) Taylor (NC) Weldon (PA)
Smith, Linda Thomas Weller
Snowbarger Thornberry Wexler
Solomon Thune White
Souder Tiahrt Whitfield
Spence Turner Wicker
Stenholm Upton Wolf
Stump Walsh Young (AK)
Sununu Watkins Young (FL)

NOT VOTING—16

Bateman Gonzalez Paxon
Clay Hastings (FL) Poshard
Coble Hinojosa Riggs
Dixon Istook Tanner
Fattah Meek (FL)
Fox Miller (FL)

☐ 1709

Messrs. FOLEY, YOUNG of Alaska, and CAMPBELL changed their vote from ''aye'' to ''no.''

Messrs. OWENS, KUCINICH, STUPAK, MCHUGH, HILLEARY, MINGE and HUNTER changed their vote from ''no'' to ''aye.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore. Pursuant to House Resolution 408, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device will be taken on the additional amendment on which the Chair has postponed further proceedings.

AMENDMENT OFFERED BY MR. ADERHOLT

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Alabama (Mr. ADERHOLT) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will designate the amendment.

The Clerk designated the amendment.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN pro tempore. This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 174, noes 236, not voting 22, as follows:

[Roll No. 108]

AYES—174

Aderholt Burton Deal
Archer Callahan DeLay
Armey Calvert Dickey
Bachus Canady Doolittle
Baker Cannon Dreier
Ballenger Chabot Duncan
Barr Chambliss Dunn
Barrett (NE) Chenoweth Ehrlich
Bartlett Christensen Emerson
Barton Coburn Ensign
Bereuter Collins Everett
Bilirakis Combest Foley
Bliley Condit Fossella
Blunt Cook Fowler
Boehner Cooksey Gallegly
Bonilla Cramer Gekas
Bono Crane Gibbons
Brady Crapo Gillmor
Bryant Cubin Goode
Bunning Cunningham Goodlatte
Burr Danner Goodling
Goss McCollum Scarborough
Graham McCrery Schaefer, Dan
Granger McHugh Schaffer, Bob
Hall (TX) McInnis Sensenbrenner
Hansen McIntosh Sessions
Hastert McIntyre Shadegg
Hastings (WA) McKeon Shaw
Hayworth Metcalf Shimkus
Hefley Mica Shuster
Hefner Moran (KS) Sisisky
Herger Myrick Skeen
Hill Nethercutt Smith (MI)
Hilleary Neumann Smith (OR)
Hoekstra Northup Smith (TX)
Hostettler Norwood Smith, Linda
Hulshof Nussle Snowbarger
Hunter Packard Solomon
Hutchinson Parker Spence
Hyde Paul Stearns
Inglis Pease Stenholm
Jenkins Peterson (MN) Stump
Johnson, Sam Peterson (PA) Talent
Jones Pickering Tauzin
Kasich Pickett Taylor (NC)
Kim Pitts Thomas
King (NY) Pombo Thornberry
Kingston Portman Thune
Knollenberg Radanovich Tiahrt
Kolbe Redmond Traficant
Largent Riley Wamp
Latham Rogan Watkins
Lewis (CA) Rogers Watts (OK)
Lewis (KY) Rohrabacher Weldon (FL)
Linder Royce Wicker
Livingston Ryun Wolf
Lucas Salmon Young (AK)
Manzullo Sanford Young (FL)

NOES—236

Abercrombie Fawell Lewis (GA)
Ackerman Fazio Lipinski
Allen Filner LoBiondo
Andrews Forbes Lofgren
Baesler Ford Lowey
Baldacci Frank (MA) Luther
Barcia Franks (NJ) Maloney (CT)
Barrett (WI) Frelinghuysen Maloney (NY)
Bass Frost Manton
Becerra Furse Markey
Bentsen Ganske Martinez
Berman Gejdenson Mascara
Berry Gephardt Matsui
Bilbray Gilchrest McCarthy (MO)
Bishop Gilman McCarthy (NY)
Blagojevich Gordon McDade
Blumenauer Green McDermott
Boehlert Greenwood McGovern
Bonior Gutierrez McHale
Borski Gutknecht McKinney
Boswell Hall (OH) McNulty
Boucher Hamilton Meehan
Boyd Harman Meeks (NY)
Brown (CA) Hilliard Menendez
Brown (FL) Hinchey Millender-
Brown (OH) Hobson McDonald
Campbell Holden Miller (CA)
Capps Hooley Minge
Cardin Horn Mink
Carson Houghton Moakley
Castle Hoyer Mollohan
Clayton Jackson (IL) Moran (VA)
Clement Jackson-Lee Morella
Clyburn (TX) Murtha
Conyers Jefferson Nadler
Costello John Neal
Coyne Johnson (CT) Ney
Cummings Johnson (WI) Oberstar
Davis (FL) Johnson, E. B. Obey
Davis (VA) Kanjorski Olver
DeFazio Kelly Ortiz
DeGette Kennedy (MA) Owens
Delahunt Kennedy (RI) Oxley
DeLauro Kennelly Pallone
Deutsch Kildee Pappas
Diaz-Balart Kilpatrick Pascrell
Dicks Kind (WI) Pastor
Dingell Kleczka Payne
Doggett Klink Pelosi
Dooley Klug Petri
Doyle Kucinich Pomeroy
Edwards LaFalce Porter
Ehlers LaHood Price (NC)
Engel Lampson Pryce (OH)
English Lantos Quinn
Eshoo LaTourette Rahall
Etheridge Lazio Ramstad
Evans Leach Rangel
Ewing Lee Regula
Farr Levin Reyes
Rivers Skelton Upton
Rodriguez Slaughter Velazquez
Roemer Smith (NJ) Vento
Ros-Lehtinen Smith, Adam Visclosky
Rothman Snyder Walsh
Roukema Spratt Waters
Roybal-Allard Stabenow Watt (NC)
Rush Stark Waxman
Sabo Stokes Weldon (PA)
Sanchez Strickland Weller
Sanders Stupak Wexler
Sandlin Sununu Weygand
Sawyer Tauscher White
Saxton Taylor (MS) Whitfield
Schumer Thompson Wise
Scott Thurman Woolsey
Serrano Tierney Wynn
Shays Torres Yates
Sherman Towns
Skaggs Turner

NOT VOTING—22

Bateman Fattah Miller (FL)
Buyer Fox Paxon
Camp Gonzalez Poshard
Clay Hastings (FL) Riggs
Coble Hinojosa Souder
Cox Istook Tanner
Davis (IL) Kaptur
Dixon Meek (FL)

☐ 1718

Messrs. GREEN, MCDADE, PETRI and MILLER of California changed their vote from ''aye'' to ''no.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. CAMP. Mr. Chairman, on rollcall no. 108, my voting card did not register, although I voted no.

(By unanimous consent, Mr. SOLOMON was allowed to speak out of order.)

AMENDMENT PROCESS FOR H.R. 6, THE HIGHER EDUCATION AMENDMENTS OF 1998

Mr. SOLOMON. Mr. Chairman, I move to strike the last word for the purposes of making an announcement.

Mr. Chairman, the Committee on Rules is planning to meet the week of April 27th, this coming week, to grant a rule which may limit the amendment process on H.R. 6, the Higher Education Amendments of 1998.

The rule may, at the request of the Committee on Education and the Workforce, include a provision requiring amendments to be preprinted in the amendment section of the CONGRESSIONAL RECORD. Amendments to be preprinted should be signed by the Member and submitted at the Speaker's table. Amendments should be drafted to the text of the bill as reported by the Committee on Education and the Workforce.

Mr. Chairman, Members should use the Office of Legislative Counsel to ensure that their amendments are properly drafted and should check with the Office of the Parliamentarian to make certain that their amendments comply with the rules of the House.

Mr. MANZULLO. Mr. Chairman, I ask unanimous consent that the Clerk be directed to strike section 5 of the bill.

The CHAIRMAN pro tempore (Mr. ROGERS). Is there objection to the request of the gentleman from Illinois?

Mr. ADERHOLT. Mr. Chairman, reserving the right to object, and I do not intend to object, but I would like to engage in a colloquy with the distinguished gentleman from Florida (Mr.

CANADY) chairman of the Subcommittee on the Constitution of the Committee on the Judiciary.

Mr. Chairman, I would like to request that the Committee on the Judiciary study the situation in DeKalb County, Alabama, which has occurred as a result of Judge DeMent's ruling. I do not object to the unanimous consent at this time, but I would like to ask that that be studied.

Mr. CANADY of Florida. Mr. Chairman, will the gentleman yield?

Mr. ADERHOLT. I yield to the gentleman from Florida.

Mr. CANADY of Florida. Mr. Chairman, I certainly understand the gentleman's concerns and I share the concerns regarding certain matters with respect to the judge's order, and that is a matter which we will consider.

Mr. ADERHOLT. Mr. Chairman, reclaiming my time, I withdraw my reservation of objection.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The CHAIRMAN pro tempore. Section 5, as amended, is stricken.

Are there other amendments?

AMENDMENT OFFERED BY MR. COBURN

Mr. COBURN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. COBURN:
Add the following at the end:

Sec. 12 Limitation on Racketeering

(a) IN GENERAL.—Chapter 99 of title 28, United States Code, is amended by adding at the end the following new section:

"Section 1633. Limitation on Racketeering"

''(a) LIMITATION.—Notwithstanding any other provision of law, in an action under section 1964 of title 18, no court of the United States or other court listed in section 610 of this title shall have jurisdiction to enter or carry out any order against the defendant, unless the defendant has engaged in a profit-seeking purpose or committed a criminal offense under state law or under this title.''.

(b) CONFORMING AMENDMENT.—The table of sections for chapter 99 of title 26, United States Code, is amended by adding at the end the following:

''1633. Limitation on racketeering.''.

Mr. COBURN. Mr. Chairman, everyone knows what a racketeer is and what a racketeer-influenced corrupt organization is. These words refer to organized criminals, to people who form gangs for the purpose of hurting other people and stealing from them.

Declaring people racketeers simply because they engage in activities and activism on behalf of a cause does something very serious to our form of self-government and our sense of civil liberties. It puts citizens at risk of losing everything they have if they support a cause that happens to not be popular in the eyes of some court. It frightens citizens against the kind of civil activism that has been a hallmark of our democracy. It undercuts the very foundations of our government by the people.

This amendment has no effect on the prosecution of criminals. It affects only civil actions under RICO. It offers no loophole of any sort for those who would attempt to steal the property of others or for those who would hurt innocent people.

There is only one class of people who benefit from this amendment: citizens lawfully exercising their rights to speak out on issues of public concern.

Mr. Chairman, it is my hope that we can support this amendment.

Mr. SHADEGG. Mr. Chairman, will the gentleman yield?

Mr. COBURN. I yield to the gentleman from Arizona.

Mr. SHADEGG. Mr. Chairman, I rise in support of the gentleman's amendment and do so on the basis that the law needs to provide that the purpose of the crime has to have been a profit-seeking motive.

The Arizona RICO law is written in a fashion to parrot the gentleman's amendment. It provides that the crime, the RICO offense, in order to be a predicate under the law, must have been pursued for financial gain.

What the gentleman's amendment does is simply clarify that and provide that unless there was either a profit-seeking purpose or a criminal offense as defined under State law or under Federal law, a RICO action cannot be brought.

That is consistent, Mr. Chairman, with both the intent of the authors and of the experts that help write the law, specifically, I believe, law professor G. Robert Blakey. I think the gentleman's amendment clarifies the law and is a step in the right direction, and I support the amendment wholeheartedly.

Mr. FRANK of Massachusetts. Mr. Chairman, I move to strike the last word.

Mr. Chairman, we will now find out if on the Republican side sauce for the goose is sauce for the gander.

I opposed an amendment that was offered before by the gentleman from California that would have created a brand-new privilege, a parent-child privilege, not on the grounds that it was an unthinkable idea but that dealing with a subject of that complexity and that impact for the first time on the floor of the House without having gone through any of our procedure was not a good idea.

□ 1730

The majority agreed with me. I make the same argument here. Actually, this is not so much an amendment as it is a periodical. I have gotten four versions of it. I understand that. I am holding all four versions.

First, it said earlier today it would only apply if the defendant was not primarily engaged in a profit-seeking purpose. Then we got profit-seeking purpose or committed bodily injury. Then we got, we struck bodily injury, and we got criminal offense. Then we got a conforming amendment.

I do not criticize the drafters. They are doing a very good job, but this is a work in progress. We have gotten four versions of it because they are trying to deal with a complex subject. I understand that this is a response to a decision that was just made, but let me make a point that I thought was clear. You run the place. You control the committees. You could schedule a hearing next week. You could schedule a markup the week after. You can bring the bill to the floor. Do not work in such haste on this issue.

Now, Members quoted Professor Blakey as saying that the RICO statute goes too far. Many of us agree. But do my colleagues know it does not just go too far for nonprofits. There are profit-making entities that have been unfairly dealt with under RICO.

You leave them alone, because my colleague from California did not like what Kenneth Starr did with regard to Monica Lewinsky and her mother, and came in with a bill right to the floor of the House. My colleagues here do not like what a court did with regard to a right-to-life group, and they come right to the floor of the House. This is not a place for instant therapy. If you do not like something you read in the paper, please do not come right up with an amendment. Let us use the procedures.

I agree in both cases; legislative action is appropriate, but not right away; not version four of the amendment. Let us have a hearing and a markup, and let us not say that we are only going to protect nonprofits. If you vote for this amendment, are you then going to tell people that as far as profit-making entities are concerned, RICO does not go too far?

Mr. SHADEGG. Mr. Chairman, will the gentleman yield?

Mr. FRANK of Massachusetts. I yield to the gentleman from Arizona.

Mr. SHADEGG. Mr. Chairman, I simply want to point out that the language as offered by the gentleman from Oklahoma does not limit this exemption to nonprofits. It will apply to profits or nonprofits. What it does is limit the activity to whether or not the activity was profit-making activity.

Mr. FRANK of Massachusetts. I agree with that. That is exactly what I said. In fact, if you are a corporation trying to make a profit, which most corporations do, you are not covered by this amendment. That is true. If you have a profit-making corporation that is selling girl scout cookies, they could not be RICO'd for selling girl scout cookies. But under this amendment if they are a profit-seeking corporation seeking a profit, which profit-seeking corporations are wont to do, they do not get the benefit of this.

Mr. SHADEGG. Again, Mr. Chairman, if the gentleman will continue to yield, I want to try to make this clear. It does not matter whether the entity is a profit-making entity or a nonprofit-making entity. If a profit-making entity is not engaged in a profit-making activity, they are engaged in a charitable activity.

Mr. FRANK of Massachusetts. Mr. Chairman, I understand that. Reclaiming my time, the gentleman is limited in the amount of time he can state the obvious. Yes, if you are a profit-making corporation and you are going about the business of trying to make a profit, this amendment does not protect you. You could be subject to RICO. I agree.

If General Motors was accused of trying to sell girl scout cookies in a racketeering way, you have come to their defense. But if someone said, corporation X is guilty of racketeering in its profit-making corporate entity, they are not protected. I do not think that ought to be the case. I do think there have been abuses of RICO, but against profit-making entities trying to make a profit. Indeed, if you look at the pattern of RICO, it is more often used by one civil plaintiff against a civil defendant and a profit-making corporation.

I do not know what play they are going to call in the huddle, but we may be about to see version five. I have four versions and seven people working on amendment 5.

Let us go to a hearing. Let us go to a markup. I do not think we should have the markup right here. It is not polite. I think we ought to do this in the regular order. But this amendment says, if you are engaging in profit-making activity, and you have a profit-making purpose, you get no benefit. You are covered by RICO.

RICO says you cannot get together for racketeering purposes. I would not suggest that that is what is going on over there, Mr. Chairman. What they are trying to do is what we should do in the regular legislative process. Let us have a hearing and do this in a sensible way.

Mr. COBURN. Mr. Chairman, I ask unanimous consent to strike the last word.

The CHAIRMAN pro tempore (Mr. ROGERS). Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

Mr. COBURN. Mr. Chairman, I recognize the pertinent comments of the gentleman from Massachusetts, and would say that many of his comment are accurate, and that given his comments being accurate, I ask unanimous consent to withdraw the amendment.

Mr. FRANK of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. COBURN. I yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. Mr. Chairman, I would look forward, as I think many on our side would, and I know the ranking member would, we would love to reexamine the RICO statute across the board and deal with abuses, and on that basis I thank the gentleman and we will be cooperative.

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. COBURN. I yield to the gentleman from Illinois.

Mr. HYDE. Mr. Chairman, I want to suggest to the gentleman from Oklahoma (Mr. COBURN) that he has performed a signal service by bringing this matter to our attention. Yes, it is in the wake of a jury verdict and a court case that happened in Chicago, but he is highlighting a problem this Congress has wrestled with for years; namely, trying to make some sense out of the RICO statute.

There are abuses where it is applied where it was never intended to be applied. That is recognized by the gentleman from Massachusetts (Mr. FRANK) and the gentleman from Michigan (Mr. CONYERS) and conservatives on this side. We need to look at RICO. And so if the gentleman is generous enough, and he has been, to withdraw his amendment, I pledge the Committee on the Judiciary will take a hard look at revising the RICO statute, hold hearings, working in a bipartisan way with the minority, and try to come up with a bill that does something substantive and correct what we all agree is an egregious flaw.

Mr. COBURN. Mr. Chairman, I thank the gentleman.

Mr. FRANK of Massachusetts. Mr. Chairman, if the gentleman will continue to yield, we may wind up invoking that great quote from Edward G. Robinson in the civil situation, ''is this the end of RICO?''

Mr. HYDE. That is from Little Caesar, and I remember it well. The gentleman and I are the only two.

Mr. COBURN. Mr. Chairman, I ask unanimous consent that the amendment be withdrawn.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

The CHAIRMAN pro tempore. Are there further amendments to the bill?

If not, the question is on the committee amendment in the nature of a substitute, as modified.

The amendment in the committee nature of a substitute, as modified, was agreed to.

The CHAIRMAN pro tempore. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. SNOWBARGER) having assumed the Chair, Mr. ROGERS, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 1252) to modify the procedures of the Federal courts in certain matters, and for other purposes, pursuant to House Resolution 408, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. CANADY of Florida. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks on H.R. 1252.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 1252, JUDICIAL REFORM ACT OF 1998

Mr. CANADY of Florida. Mr. Speaker, I ask unanimous consent that in the engrossment of the bill, H.R. 1252, the Clerk be authorized to correct section numbers, punctuation and cross references, and to make such other technical and conforming changes as may be necessary to reflect the actions of the House in amending the bill, H.R. 1252.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

APPOINTMENT OF CONFEREES ON H.R. 3579, 1998 EMERGENCY SUPPLEMENTAL APPROPRIATIONS ACT

Mr. LIVINGSTON. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 3579) making emergency supplemental appropriations for the fiscal year ending September 30, 1998, and for other purposes, with a Senate amendment thereto, disagree to the Senate amendment, and agree to the conference asked by the Senate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

MOTION TO INSTRUCT OFFERED BY MR. OBEY.

Mr. OBEY. Mr. Speaker, I offer a motion to instruct.

The Clerk read as follows:

Mr. OBEY moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the bill H.R. 3579, making emergency supplemental appropriations for the fiscal year ending September 30, 1998, and for other purposes, be instructed, within the scope of the conference, to agree to funding for the International Monetary Fund consistent with the terms, conditions, and provisions of H.R. 3114, as reported by the Committee on Banking and Financial Services.

The SPEAKER pro tempore. The gentleman from Wisconsin (Mr. OBEY) is recognized for 30 minutes, and the gentleman from Louisiana (Mr. LIVINGSTON) is recognized for 30 minutes.

Mr. SANDERS. Mr. Chairman, I wonder if the gentleman from Louisiana is, in fact, in opposition to this IMF bailout?

Mr. LIVINGSTON. I am in opposition to the motion.

Mr. SANDERS. Mr. Speaker, I thank the gentleman.

□ 1745

Mr. OBEY. Mr. Speaker, I yield myself 8 minutes.

Mr. Speaker, I am in a curious position here today. I am offering a motion to instruct to the conferees to defend what would have been considered a core Republican value when I first came to this body.

When I came to this body, the Republican Party was a very strong internationalist party, and it recognized that the best way to defend our own economic interests was to make certain that our economy was operating in a world which was as stable as possible. We are being asked to appoint conferees tonight on a bill which is supposed to contain not only supplemental appropriations for Bosnia and for Iraq and for flood victim relief, it is also supposed to contain, at least the administration asked us to include in this proposition, full funding for the IMF replenishment and funding, as well, for the United Nations arrearages so that we can eliminate our debt status in that organization.

I have a motion here tonight which would instruct the conferees to at least accept, as an add-on to the bill passed by this House, to accept our obligation to fully fund the administration request for the IMF.

I am not doing that because it will help American business, although it certainly will. I am not doing that because I care about what is going to happen in Asian countries around the world. I care, but that is not the reason I am offering the motion. I am offering this motion because we need to be aware of the fact that what happens in our economies around the world can have a crushing effect on American workers and a hugely negative effect on the American economy.

We have seen what has happened in Asia when that region has continued to engage in fiscally ludicrous acts. We have seen Japan for years follow an economic policy which has led to a huge over-building in many areas in Asia instead of having led to a growth in Japanese consumption. And we have seen speculative activities, as well, in Asia. And, as a result, a few months ago we saw a huge collapse of Asian currencies.

I do not worry about that because of what it means to Asia. I worry about that because of what it means to us. Because what it means is that, as a result of those devalued currencies, we have got every cargo ship known to man being loaded with artificially low-priced foreign goods who are on their way to the American economy and they are soon going to be sold in this economy at cut-rate prices because of currency disequilibrium; and those sales and the accompanying trade deficits are going to cost many American jobs and they are going to close many American factories.

We are being told that, in spite of that threat, we should not act upon it because, somehow, an element of the majority party caucus still wants to use this IMF crisis as leverage in order to push their advantage on a totally unrelated issue involving family planning policy known as the Mexico City policy.

And so, the American business community is being told that they should wait for another day to have this problem addressed. I do not think we can afford to wait for another day. At any moment, the act of some speculator, the run on country's currency could cause a further unraveling of the situation in Asia, which would present us with even bigger economic problems. At any time, we could have a currency crisis in the Ukraine, in Brazil, in Russia, in India, in Turkey; and, without IMF replenishment, we would not be ready to defend the economic interest of the United States.

My motion would simply instruct the House conferees to agree to the administration's request for funding of the International Monetary Fund under the terms and conditions approved by the House Banking Committee. That Banking Committee bill was approved on March 5 with the overwhelming bipartisan vote of 40–89, with the support of virtually all of the Democrats on the Committee and the votes of two-thirds of the Republicans on the committee. And that bill was endorsed by the administration.

That bill sets tough new labor rights and environmental conditions on IMF lending, as well as new requirements for increased accountability and transparency at the IMF. It sets up a watchdog group, including representatives from labor and NGO groups, to review the implementation of labor rights and other criteria. And it does a number of other things.

I do not think that we can afford to wait, and I do not especially think it is a good idea to allow us to go to the Senate and have only the Senate language on the table, language which was much more favorable to the administration, frankly, but language which I do not believe adequately defends the interest of American workers.

That is why I would simply say to those of my colleagues who have told their workers or their businesses or their farmers that they are going to be defending the economic interest of American workers, I think this is the time and this is the vote. This is not a partisan issue. It certainly should not be a partisan issue. It has become wrapped up in partisan hostage politics, unfortunately, but it should not be so.

We are here tonight to answer the question whether or not we will defend the economic interest of the United States and to defend the interest of American workers; and I think the best way to do that is to support this motion to recommit, and I would urge the House to do so when the vote comes later this evening.

Mr. Speaker, I reserve the balance of my time.

GENERAL LEAVE

Mr. LIVINGSTON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 3579, and that I may include tabular and extraneous material.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

Mr. LIVINGSTON. Mr. Speaker, I yield myself 4 minutes.

(Mr. LIVINGSTON asked and was given permission to revise and extend his remarks.)

Mr. LIVINGSTON. Mr. Speaker, regardless of one's position on the IMF, one should understand that this is simply a motion to instruct the conferees to adopt the position that has not been debated on the floor of this House. It seems to me that if we are going to instruct the conferees to do anything, we are on solid ground if we are instructing them to deal with issues that have been debated and sent forward.

But the fact is the IMF is an issue that will be debated at some later date on the floor of this House. It has not yet been debated, and forcing the conferees to support this provision dealing with the IMF simply because the Senate has dealt with it and the House has not is ill-advised.

Moreover, reading the motion to instruct, it says that we should support the terms, conditions and provisions of H.R. 3114, the bill reported by the Committee on Banking and Financial Services. That bill differs substantially from the IMF provisions contained in our Non-Emergency Supplemental bill. It may never get to the House. We do not know what is in that bill, and to force the conferees to support all of the terms and conditions of what I believe is about a 60-page bill and incorporate it I think is extremely ill-advised.

The House Committee on Appropriations and the leadership of this House decided on a two-bill strategy. The bill which the House passed that will be before a conference provides for emergency appropriations for Bosnian peacekeeping disaster relief, and other military assistance.

In fact, if we do not address this military assistance by May 1, we understand from the Secretary of Defense that he might give notice of furloughs for people all within the Defense Department. So there is an emergency with respect to defense appropriations.

And, obviously, we know from all the other disasters that have occurred around this country we need to provide additional assistance to people. We are trying to give them that relief and not

get embroiled in a heavy discussion on IMF or any other extraneous issues.

The second bill, which has not come before the House, is a non-emergency bill that includes $17.9 billion for the International Monetary Fund. That bill has passed the Committee. I sent a letter to the Committee on Rules asking for an open rule for consideration of that bill, and I requested the leadership to schedule that legislation as soon as possible.

Some people say that that second bill will never see the light of day. They are wrong. The fact is that many other items in the second bill absolutely must pass. They have to pass. Things like the veterans compensation and pension benefits. Believe me, Mr. Speaker, there is going to be a second bill.

There is going to be a second bill, and we should not prejudge the outcome of that bill by instructing conferees to weigh the consequences of that bill before we even have a chance to debate the contents on the floor of the House. We are going to have a full and fair discussion of those issues at a later date on the floor of the House. We should not prejudge them by putting them prematurely into the conference. They are totally unrelated to emergency appropriations, and the emergency bill needs to move forward so we can meet the needs of the disaster-afflicted people throughout the country and the military, which has to replenish the monies that they have expended in Iraq and in Bosnia.

So I urge Members to defeat this motion to instruct. It is on the wrong bill. It will have a full and adequate debate but not on a motion to instruct. We need to get the disaster bill conferenced and on its way to the President for his signature.

Our troops in Bosnia and Iraq will get the money they need to do their job, nobody in the Defense Department will be furloughed, and our citizens and the victims of the disasters will get the money that they deserve.

Mr. Speaker, I reserve the balance of my time.

Mr. OBEY. Mr. Speaker, I yield 3 minutes to the gentleman from Iowa (Mr. LEACH), the distinguished chairman of the Committee on Banking and Financial Services.

Mr. LEACH. Mr. Speaker, I thank the gentleman for yielding.

First, let me acknowledge part of what my distinguished colleague and good friend, the gentleman from Louisiana (Mr. LIVINGSTON), said. This is not a perfect process, and I do not think that. I want to say to my distinguished friend that I appreciate very much the thoughtful attention his committee has given to this issue, and I am very much in his debt.

Having said that, I am hard-pressed not to support a product that comes from my committee, not only a product that comes from my committee but a product that has been caught up in some very unusual political kinds of pitfall debates that I think are not altogether central to the IMF issue.

So here let me just take a brief moment to talk about the IMF. The IMF, historically, was established in theory before the end of World War II and, in fact, right after the war to deal with the causes of war, the causes of depression.

□ 1800

The rationale for the creation of the IMF is very much alive today and is symbolized in a circumstance in a part of the world that has fought three wars in the last 60 years.

It is in the interest of the United States of America to stabilize the economic turmoil in Asia. It is in the interest of the United States economy to stabilize the circumstance in Asia and ensure that it does not widen and deepen in terms of a gulf of economic recession spreading from one region of the world to another.

The word bailout is sometimes applied to the IMF. Actually, it is anything but. It is a lending, not aid-granting institution. It is an institution to which the United States proffers resources which amount to less than 20 percent of the total resources of the institution but resources which we have to call on on a very, very short notice, an institution that has almost $40 billion in gold reserves.

In a way, one might argue the IMF is the cheapest conceivable stabilizing institution in the world today. Rather than relying on the United States taxpayer alone and ways it could cause enormous liabilities of the United States, we are drawing on over 80 percent of the resources from others in ways using an institution that has a triple-A rating.

Finally, with regard to timing, I would also simply add that the longer we delay, the greater the likelihood that this problem deepens and widens. Delay is on the side of instability. Firm, direct, straightforward, prompt American action is on the side of stability.

For the sake of stability and for the sake of the United States economy, for the sake of United States' leadership in international affairs today, I would urge that, as awkward as this type of resolution is, that it be supported.

Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. LIVINGSTON. Mr. Speaker, I yield 2 minutes to the very distinguished gentleman from Alabama (Mr. BACHUS).

Mr. BACHUS. Mr. Speaker, in addressing this issue, I think we ought to first ask ourselves who is the IMF. Well, the IMF functions like a private club. Its minutes are secret. They are never released to the public. Its votes are not a matter of public record. The people who work for the IMF do not pay income taxes; or, actually, they pay income taxes, but then the IMF reimburses them for those income taxes.

We are talking about funding the IMF and funding its operation. Hear me, we are talking about an organization whose employees receive reimbursement for their income taxes.

When their children want to go to private schools, that education is financed; and we will continue to finance that if we vote another $18 billion to the IMF. When their children want to go to a private university or college, the IMF will pay their full cost of education, tuition, books.

We are asking the U.S. taxpayers in this funding request to reimburse the employees of the IMF for income taxes, for private school costs, for tuition, and not only that, but for salaries higher than those paid by the U.S. Government.

We might say, well, is it worth it? What will the IMF do with our money? We have been told they are going to bail out Asia, but that is not true. They have already funded the bailouts of Asia.

They have $80 billion in reserve. They have $40 billion in gold reserve. Indonesia, who they loan money to, has $16 billion in reserves. What are they going to do? They are going to expand their role and continue to give loans to foreign countries at 4.5 percent interest when the going market rate is 10 to 14 percent.

I will tell my colleagues there is going to be an infinite supply of those lined up to get money subsidized by the U.S. taxpayer.

Mr. OBEY. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from California (Mr. DOOLEY).

(Mr. DOOLEY of California asked and was given permission to revise and extend his remarks.)

Mr. DOOLEY of California. Mr. Speaker, I rise in strong support of this motion. Clearly, the United States has a vested interest in the funding of the International Monetary Fund. We have an interest because we can protect jobs, we can protect the economic interest of the companies which are exporting so much product to Asia.

When we look at my home State of California, nearly 30 percent of our exporting is going to Asia. It is clearly in our interest to restore confidence in that market, to provide greater financial certainty for our businesses which are exporting critical products.

It is also in the interest of the United States to provide IMF funding because it provides for greater international security. When we look at the potential consequences of a weakened South Korea, with their inability to deal responsibly with their financial crisis, we are on the verge of inviting potential conflict with North Korea, looking at perhaps a weakened neighbor to the south.

Failure also to provide funding could further undermine the fragile investor confidence in the region and set off another round of global economic insecurity. If we do not arrest the financial crisis in Asia, we are inviting this to expand to other parts of the world, be it Russia, be it Latin America, which

would further undermine the economic interest of the United States.

Rejecting the IMF funding also threatens the leadership the United States is providing in the world, the leadership that we are providing in terms of providing economic stability as well as military stability.

Clearly, this motion to instruct the conferees will ensure that this Congress will be able to act in an expedited fashion to ensure that our interest will be protected.

Mr. LIVINGSTON. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from New Jersey (Mr. SAXTON).

Mr. SAXTON. Mr. Speaker, if I thought that the $18 billion which is being asked for would provide a benefit to the people of this country and to the people of Asia, I would be the first one out front voting for it.

The fact of the matter is that the Joint Economic Committee and others have been studying this issue since last summer, since this request came in, and that is simply not true. It is not true for a number of reasons.

The gentleman from Alabama (Mr. BACHUS) talked about the secret club that surrounds the IMF. We cannot find out what they do, why they do it, the results of the studies on what they have done, any of that. That is all secret.

Secondly, and more importantly, the average loan rate is 4.7 percent.

Let me ask you a question, Mr. Speaker. If you were a businessman and the IMF came along and said, if you make risky investments, which the foreign countries and institutions did, and you fail, which they did, I will give you a loan of 4.5 percent, how would that make your decision making, understanding that we have two criteria in making investments, one is to make a profit and the other is how much risk we have to involve when we do it?

Obviously, a low interest rate bailout loan on a policy of the organization that does it on a global basis is going to have a deleterious, negative effect on the kinds of investment decisions that are made.

Besides that, Mr. Speaker, I think there is another issue that needs to be discussed, and that is simply this: The IMF promotes higher taxes. The IMF promotes monetary instability. And here we are being asked today, after we have not even had a debate on this House floor, to vote $18 billion of American taxpayers' money that promotes, through an organization that promotes higher taxes, that promotes monetary instability. That has a deleterious effect on foreign economy that is not a positive one.

I vote no, and I hope everyone else will here today.

Mr. OBEY. Mr. Speaker, I yield 1 minute to the gentleman from New York (Mr. LAFALCE).

Mr. LAFALCE. Mr. Speaker, I really think that passage of the IMF legislation is the most important economic issue confronting the Congress in the year 1998. If we do not pass it, I believe we would be defaulting on our global economic leadership. It is unthinkable for us not to pass it. We must participate within the IMF.

We must also participate in the legislative arena in a manner that will enable us to obtain a majority of votes. That means we have to proceed collegially. We proceeded collegially within the House Committee on Banking and Financial Services. We proceeded in a way that was able to bring about a significant majority of Republicans and Democrats so that we were able to report the bill out by a vote of 40 to 9.

We recognize, of course, that there is significant criticism of the IMF and, therefore, we adopted amendments in a collegial, bipartisan manner to instruct the administration in the ways to reform the IMF. Those amendments are essential to obtain passage and to accomplish mutually desired goals. Support the motion to instruct.

Mr. LIVINGSTON. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Vermont (Mr. SANDERS).

Mr. SANDERS. Mr. Speaker, I thank the gentleman for yielding.

I rise proudly as a progressive, as an internationalist, as somebody who is pro-choice, and someone who has a 100 percent lifetime labor voting record in the House of Representatives and have worked for labor and working people for his whole adult life.

I rise in strong opposition to the motion brought forth by my good friend, the gentleman from Wisconsin (Mr. OBEY).

Let us be clear what we are talking about here. We are talking about an $18 billion replenishment of the IMF, a 45 percent increase in our contribution to the IMF.

Please understand the Asian bailout is over. The $19 billion that we have already given to the Chase Manhattan Bank and the BankAmerica and to Citibank for their losses, and they came here for corporate welfare, and we gave it to them, that is gone. That is over. What we are talking about is new money for a new mission and for an expansion of the function of the IMF. That is point number one.

Point number two, I believe it was last year that many people took to the floor of this House and they said, Mr. Speaker, you are wrong for combining disaster relief with other matters. I said so.

How could we come back today and say the IMF is a disaster? It is not. People all over this country want to deal with the ice storm in the Northeast, tornados, hurricanes. That is not an issue that the IMF should be combined with.

Thirdly, no matter what our point of view may be on the IMF, this issue needs serious debate. It should not be brought here all of a sudden for a one-hour debate. It deserves many hours, and it deserves some ample warning time so we can have serious discussion.

Fourthly, does the IMF need this money today? No, they do not. Nobody believes they do. The IMF has $45 billion now in liquid resources, a $25 billion credit line and $37,000 in gold reserves.

Mr. OBEY. Mr. Speaker, I yield 2 minutes to a well-known reactionary, the gentleman from Massachusetts (Mr. FRANK).

Mr. FRANK of Massachusetts. Mr. Speaker, I am impressed by the gentleman's renewal of the Louisiana/Vermont alliance. Not since the war of 1812 has it been so vigorous, but I think it is wrong this time.

The gentleman from Vermont talked about the Asian bailout as if it was all about Chase Manhattan Bank. I happen to thank that Kim Tae-chung, the President of South Korea, is one of the great, small d, democratic heroes of our era. I will guarantee to my colleagues that, if asked, he would express his appreciation for the role of the IMF.

This is a very courageous democrat, a man who risked his life for democracy. He was elected president. He is working with the unions. He is working to try and help his country. The IMF is very important to him.

We have a thug like Soeharto, and we are working to try and change IMF policies there. That is why this particular amendment is such a good one.

People have said, well, we should have debated this. Fine by me, but I have not been in control of the committee that kept it off the floor. We had a long debate and hearing in the Committee on Banking and Financial Services. This should have been on the floor before. We cannot keep it off the floor and then claim the benefit of it having been kept off the floor. We cannot shoot our parent and plead we are an orphan and ask for mercy. The people who controlled the House decided to keep it off the floor. That is why we are dealing with it now.

It has been talked about a great deal. This is a version of it that reflects the importance of it to places like South Korea and to Thailand which are trying hard to make improvements. It reflects the need for labor standards. We explicitly here, by the way, included strong protections for the agricultural sector of our economy. The bill was explicitly amended to recognize that.

This is not a perfect world. It is not a perfect institution or a perfect bill. It is as good an effort as we were able collegially to put together, working with agriculture and labor and others, to provide more funds. It is true, it is not absolutely necessary now, but I will tell my colleagues this: If, in fact, we know that the House is never going to vote for the IMF, then maybe we ought to buy some Korean and Thai currency and sell it short. Because it is going to have a negative effect if we walk away from this on decent, struggling governments from South Korea and Thailand that deserve some support. It is also in our own self-interest to support them.

□ 1815

Mr. LIVINGSTON. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from California (Mr. CUNNINGHAM) a member of the Committee on Appropriations.

Mr. CUNNINGHAM. Mr. Speaker, I understand those that may want to support the IMF, but if we look, economists themselves are split whether the IMF does any good or not. And then those that say even that they doubt that we need it to bail out southeast Asia. But yet $18 billion.

As my colleagues know, this body has wrestled with emergency flood, emergency El Nino, emergency supplemental for defense, and yet we are having to try to offset it so we do not break the budget caps through domestic spending. But yet we are going to give away $18 billion. Haiti, Somalia, Bosnia, $16 billion in operations that we get no credit for from the U.N., but yet there are those that want to give money to the U.N. in support, $16 billion, $18 billion, $5 billion more for the extension in Bosnia.

My colleagues, where does it stop? The American taxpayers have to pay for this. It is not our money. It is $18 billion, not even million dollars, and we are going to give it away, Mr. Speaker. That is wrong.

My colleagues rap on the Republicans all the time for having to offset money. We want to break the budget caps, we want to spend more money. Well, it is easy to spend it but it is difficult to go to the taxpayers and ask them to pay for it, and then even more difficult to say where are we going to take it out and still not break the budget caps? Alan Greenspan said if we do, interest rates will go back up, the economy is going to go to hell, and it just does not work.

But yet here they are asking us again to spend, to spend, to spend, bigger government, higher taxes, spend money. It is the same old rhetoric, and I do not support it, and I do not think the American people do, Mr. Speaker.

Mr. OBEY. Mr. Speaker, I yield 1 minute to the distinguished gentlewoman from New Jersey (Mrs. ROUKEMA).

(Mrs. ROUKEMA asked and was given permission to revise and extend her remarks.)

Mrs. ROUKEMA. Mr. Speaker, I want to stress again, when this bill passed the committee it passed by a vote of 40 to 9. Two-thirds of the Republican members of the committee voted in favor of this bill. Now, why? Not because we are giving money to foreigners, not because we are bailing out banks, but because we are concerned about jobs here at home.

I speak from New Jersey, representative of export-oriented States, and I can see many around here who understand the agricultural community and their dependence on this kind of trade situation. That is why it passed with an overwhelming majority.

I also want to say, and this has not been stressed enough, that we have in this bill, and it is included in the motion to instruct, certain reforms that are passed. We acknowledge the transparency and conditionality questions related to IMF. Those reforms are here. We will be requiring certain things of the countries that receive this aid. We will be putting more requirements on IMF in terms of the transparency, we acknowledge that. But, my friends, this is about jobs here at home and also security abroad.

The House Banking Bill contains strong language on Conditionally and making the IMF more Accountable to Congress.

The bill includes:

Accountability. I think the American people should know what the IMF is doing with the money they have. Not surprisingly previous Congresses thought that an audit of IMF lending activity was an important issue. The National Advisory Counsel—of which the Secretary of the Treasury is the chairman—is required to report annually by April 1 to the Congress regarding IMF loans. I was shocked to find out that the most recent annual report filed by the Treasury covers 1992—and this was transmitted to Congress in December of 1997!

The Banking bill will require the Secretary of Treasury to provide a semi-annual report to the Congress certain IMF loans.

The report would be a GAO "audit" of IMF loans—the amount, term, interest rate, disbursement schedule, etc. In addition, the report will include information regarding trade barriers in borrowing countries which may affect U.S. exporters as well as borrower country export promotion policies which may result in dumping of foreign goods in the United States. And importantly, the Secretary of the Treasury would be required to testify annually before the Congress on the contents of such report.

Let there be no mistake, I support full funding of the IMF—but Congress needs to be informed and there needs to be accountability at the Treasury Department. Being 5 years behind in providing required reports is nothing short of outrageous and an insult to the legislative branch. It is for this reason that I will sponsor an amendment today I urge my colleagues on the Banking Committee to join me in supporting the Treasury Audit and Accountability Amendment.

Mr. LIVINGSTON. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania (Mr. KLINK).

Mr. KLINK. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, you are right, the House should not consider IMF funding just an hour before we all get on board planes to head toward home. We should have a full debate on this issue.

Let me just give my colleagues one example of why we should be discussing this. The IMF is working on an amendment to its Articles of Agreement that would give the IMF the power to require all member countries to liberalize their laws regarding the flow of capital accounts. They would be the ultimate enforcer of capital deregulation. All member countries, including the United States, would be told by the IMF what they could and could not do regarding the flow of capital.

If my colleagues want some international bureaucrat to make that decision instead of the elected Members of Congress, then we should pass this motion. I think that there are some people probably who may disagree with me. The point is, we have not had a chance to study this issue, we have not had a chance to debate this issue. We are asked to come here at the end of a work week, after a two-week hiatus, and take up a very complex issue. And I think that the Members of this Congress deserve more, the people of this Nation need more, and whatever Members think about the MAI or the IMF, the one thing that they should know is that we should be making this decision after we study it and after we debate it.

Mr. OBEY. Mr. Speaker, I yield 1 minute to the distinguished gentlewoman from California (Ms. PELOSI).

Ms. PELOSI. Mr. Speaker, I thank the gentleman for yielding this time to me.

This evening we had a special opportunity in this House of Representatives, and that is to accept a motion to instruct for a resolution that has strong bipartisan support in its committee of jurisdiction. Many others have said it passed 40 to 9 with the support of the Chair, the gentleman from Iowa (Mr. LEACH) and the ranking member, the gentleman from New York (Mr. LAFALCE).

It has a framework to address many of the concerns our colleagues have about the IMF, and frankly that I share, about the need for increased transparency, for conditionality that includes labor rights and environmental protections, and the moral hazard issue of do countries' financial institutions take risks unduly because they think there is an IMF bailout. This resolution, this provides the framework to increase that, and all of those concerns are trumped by the contagion clause. Contagion, that is the spread of what will happen to the currencies in these countries, will have a terrible impact on workers in the United States.

Mr. Speaker, I want to make one point very, very clearly. This is not a bailout, it is a loan. We get a credit, an asset for it. We are not bailing out, we are not giving money away. We are honoring our commitment. Even the staunchest critics of IMF say we need to do this replenishment now and then proceed with the reforms.

Mr. LIVINGSTON. Mr. Speaker, I yield 1 minute to the very distinguished gentleman from California (Mr. ROHRABACHER).

Mr. ROHRABACHER. Mr. Speaker, we should be debating this. I should have more than 1 minute, and I am not complaining to the gentleman from Louisiana (Mr. LIVINGSTON). It is a travesty to have this debate so that DANA ROHRABACHER has 1 minute to express himself on this issue. And the same with the rest of my colleagues. When are we going to stand up for our own rights in this body?

Here we have the violation of the rights of our people to control their destiny, taken away from them by $18 billion and given to some crook or some nincompoop overseas who has basically driven their own financial institutions into bankruptcy, and we cannot debate it for more than an hour. This is ridiculous, and it is as ridiculous as the idea of bailing out the IMF in the first place.

I just returned from Asia. There are alternatives in Asia to this bailout. And yet if we force our money over there in this IMF bailout, it will undercut the private efforts in that area to bail out their own problems. And what do they do with this money, this $18 billion and the other money going over to Asia? It is used to finance factories that put out goods and services that put our own people out of work.

It is immoral for us to give this money to foreigners after we have cut programs at home. We should not be bailing out the IMF, we should be balancing our budget. And we should have a longer debate.

Mr. LIVINGSTON. Mr. Speaker, I yield unfortunately just 1 minute to the gentleman from New York (Mr. SOLOMON) my good friend, the very distinguished chairman of the Committee on Rules.

Mr. SOLOMON. Mr. Speaker, I say to the gentleman if this were here under a rule we would have several hours to debate this and not several minutes.

As my colleagues know, in the other body they are debating, my colleagues, the NATO expansion bill over there for Poland, Hungary and the Czech Republic, and we have asked them to beef up their military so that they can interoperate and communicate with our military to defend each others' boundaries. We are asking them to pay their fair share.

Here the IMF is already warning these 3 countries they will not underwrite economic development loans if the countries start jacking up the military budgets. That could cost us $19 billion over the next 15 years. What is going wrong?

We should go slow on this, we should ask the IMF, the socialist French economist who is in charge of it, to come here and tell us why he is going against American foreign policy. We are footing most of the bill; why do they not listen to us?

This is going nowhere and we are going to see to it.

Mr. LIVINGSTON. Mr. Speaker, I yield 1 minute to the distinguished gentleman from California (Mr. COX) the chairman of the Policy Committee of the Republican Conference.

Mr. COX of California. Mr. Speaker, I thank the gentleman for yielding this time to me.

I would like to focus our attention on precisely where we are. We are being asked to increase the United States' commitment to the International Monetary Fund by 45 percent over the longstanding level of U.S. support. We are being asked to add $18 billion to our commitment. Which works out, incidentally, to over $150 for every single working taxpayer in America. Can my colleagues imagine calling them up and asking for the money and telling them we only have time to debate this for an hour because it is not in the bill? We are adding it on the floor at the last minute.

It has been pointed out here that the IMF needs some reform. We have got to exercise some leverage, even if we were going to give $18 billion to the IMF, if we want those reforms. But if we simply sign on at the last minute without any questions, there will not be any reforms.

This proposal hurts American agriculture because the IMF, as is well known, is going to continue its policy of supporting devaluations which hurt our market for exports. This hurts U.S. exporters. Without question, the IMF causes as many problems as it creates. This deserves real debate, has not anything to do with our El Niño storms, which is what this bill is supposed to be about. Keep it out.

□ 1830

Mr. OBEY. Mr. Speaker, I yield myself 30 seconds.

Mr. Speaker, it ought to be understood that we are not limited in debate today because of our choosing. We are limited in debate because we were denied the opportunity on the rule when this bill was considered to have a full-fledged debate on the IMF. We asked for that opportunity. Every person who voted against us on the rule has the responsibility for the fact that we are limited only to one hour tonight. Do not blame us for the problem which you yourself created.

Mr. LIVINGSTON. Mr. Speaker, I am happy to yield 2 minutes to the gentleman from Texas (Mr. DELAY), the great whip of the majority party.

Mr. DELAY. Mr. Speaker, I thank the chairman for all his hard work, and I appreciate being yielded this time.

Mr. Speaker, I rise in opposition to the motion to instruct. The question today, frankly, is not whether you support the IMF. We will answer that question in due time. Instead, we have to ask whether this motion will speed up disaster assistance to the American people, or slow that assistance down.

Clearly, if we pass this motion to instruct conferees, we will complicate the process of getting needed assistance to Americans who have faced disasters in the last year.

When it comes to the IMF, many of us continue to have strongly held and competing opinions. Why would one want to mix that kind of understanding and confusion?

Some believe that we should give more money to the IMF, no matter what the consequences. Others of us believe that the IMF is all too often not the solution, but rather the problem. Still others have opinions that fall somewhere in the middle.

We all agree, however, that we should do our best to help Americans who have suffered from natural disasters. We also should all agree that our Armed Forces need the necessary funds to sustain them overseas.

Mr. Chairman, I just urge my colleagues to keep the process as simple as possible. Let us vote against this motion to instruct, and let us make sure that the American people are taken care of first.

Mr. OBEY. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Iowa (Mr. BOSWELL).

(Mr. BOSWELL asked and was given permission to revise and extend his remarks.)

Mr. BOSWELL. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, a few weeks ago, not too long ago, several of us met with Mr. Greenspan, Mr. Rubin, and Mr. Glickman, and we had quite a good meeting. They agreed, and Rubin and Greenspan do not always agree on everything, but they agreed that day IMF is very, very important to us. I think the question came from at least a half a dozen different approaches, and some of you may have been there, too.

Is there risk in this? Mr. Greenspan said that we have never lost a dime on this; that there is always hard collateral. They also said that it is their opinion, the three of them, that the hit on this, if the Asian economy does go down, would be on agriculture.

In our State, 40 percent of our production is exported. That is important. Forty percent. Then I remembered as I reviewed the figures on the trade balance that it is up $26–$27 billion, but that agriculture is on the plus side. We cannot afford to take that risk.

Now, if these people tell us that this is a line of credit, that they may not use it, but it ought to be there to save our economy, we ought to give it serious thought.

Mr. Speaker, I support this.

Mr. LIVINGSTON. Mr. Speaker, I am pleased to yield 1 minute to the distinguished gentleman from Ohio (Mr. KUCINICH).

Mr. KUCINICH. Mr. Speaker, I am urging my colleagues to vote no on the motion to instruct. Congress gives instructions to the IMF. There has been over 2,000 opportunities for the IMF to listen to the concerns of the American people, and each time the people have been ignored. As a matter of fact, the Executive Director of the IMF has only voted 12 of those 2,000 times.

They have been ''absent without leave'' at the IMF. Over and over they have ignored the will of the people and the will of the Congress. AWOL on labor rights, AWOL on environmental rights, AWOL on human rights.

So we are now going to tell this Congress that they are going to guarantee labor and environmental rights? That is baloney. Vote against the IMF, vote against the motion to instruct, and vote to stand up to this international financial cartel, which is destructive of

jobs and human rights all over this world.

Mr. OBEY. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Minnesota (Mr. VENTO).

(Mr. VENTO asked and was given permission to revise and extend his remarks.)

Mr. VENTO. Mr. Speaker, I rise in support of the Obey motion to instruct. The fact is that the money is already in the Senate bill. The question is, are we going to give them any guidance, any further guidance, on how to use it?

So the IMF wants what every bureaucracy wants, all the money and all the flexibility they can get. We are limiting them. The fact is there is an urgency to the passage of this money. There are 62 nations out of 183 that have loans, 183 Members of the IMF that have loans. It is obvious with the recessions or lack of growth in the European and Asian marketplaces that that does constitute the opportunity for our markets in terms of trade.

This is a fight really about those of us that are really wanting to have a free market and free trade to occur. We have a battle going on right now in terms of those markets. If the American model and the model of free markets does not work, and it is going to fail, we have to have mechanisms in place that can prevent it from going down to ground zero. That is what the IMF does.

All of us admit the IMF is not perfect, but what other tool do you have to go to? If you are in the middle of the ocean facing a storm, I do not think the idea to jump overboard and start swimming is a good one. That is what the Members of this Congress are proposing to do.

Mr. LIVINGSTON. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Florida (Mr. STEARNS).

(Mr. STEARNS asked and was given permission to revise and extend his remarks.)

Mr. STEARNS. Mr. Speaker, I thank the distinguished Chairman of the Committee on Appropriations for yielding me this time.

Mr. Speaker, I rise in strong opposition to the motion to instruct conferees to provide funding to the fiscally unsound IMF.

Mr. Speaker, for a moment let us consider a conversation down in my district with Alice and John Moore. If Bob Newhart could do this, he could do a much better job than I am going to do.

I knock on the door and I say, ''Hello, Alice and John. I am your Congressman. Tonight I am going to vote to fund the IMF.''

They say, ''What is the IMF?''

I say, ''This is an international fund, not from the United States, that is going to take your tax dollars and give it to Indonesia, South Korea, Thailand and others to help bail them out.''

They say, ''Mr. Stearns, you are my Congressman. Why are you doing this?''

''Well, let me tell you, there is an elite group in Congress, in the Senate, particularly down at the White House, who thinks they can spend your money overseas with these countries.''

''Why haven't these countries taken care of themselves?'' This is Alice talking about her and her two daughters, and she is talking also about John, his paying the bills. She is saying if I can take care of my family, if I can take care of my bills, why can't Indonesia, South Korea and these others take care of theirs?

''The bottom line, there is a little group in Washington that thinks we need to tax you higher so we can pay the IMF.''

Vote against this motion.

Mr. Speaker. I rise in strong opposition to the Motion to Instruct Conferees to provide full funding to the fiscally unsound International Monetary Fund and to provide to the fiscally irresponsible United Nations with alleged arrearages owed by our nation.

This Motion to instruct is being offered under the guise of an Emergency Supplemental Appropriation.

Let me be clear. The International Monetary Fund is not currently suffering an emergency. The money that has been pledged by the IMF to Indonesia, Thailand, and South Korea to combat their fiscal crisis is already provided.

Let me reiterate that point. By denying this Motion to Instruct and by denying any IMF money as part of a Supplemental Appropriation we will not harm the ongoing financial bailout of these Asian nations.

The IMF and its proponents scream that they cannot handle a crisis and that the IMF immediately needs $18 billion from the American taxpayer. How ludicrous.

Since the financial crisis started in Asia in the Summer of 1997, there has been no other financial crisis that required the assistance of the IMF. In fact, the economic situation has settled down in East Asia and there is the beginnings of an economic recovery.

The IMF has, right now, more than $75 billion to combat financial crises. The IMF has an estimated $50 billion in reserve right now in addition to $25 billion in an emergency account. On top of all that, the IMF will receive $28 billion in loan payments from other borrowing nations to the IMF by the end of the Year 2000.

With all that said, by the end of 2000, the IMF will have over $100 billion in reserve for their uses. Plus, these Asian nations will be paying back the $120 billion that they have borrowed from the IMF in the last few months.

Is a $200 billion IMF reserve fund not enough? This attempt to increase the IMF quota is not to deal with any emergencies, but is a naked attempt to expand bureaucracy and the scope of the IMF.

The IMF wants to play a dominant role in the world's economic policies, not simply aid nations in distress. The IMF has even tried to tell the United States what its economic policies ought to be.

The IMF is so arrogant that they still refuse to give Congress documents that we have requested over and over again that will give us more detail about how poor the IMF's policies are.

I urge my colleagues to soundly defeat this Motion.

Mr. OBEY. Mr. Speaker, I yield 30 seconds to the gentlewoman from Connecticut (Mrs. JOHNSON).

Mrs. JOHNSON of Connecticut. Mr. Speaker, in my 30 seconds, let me say I rise in strong support of this motion. I regret having to support this procedure, but in spite of my great respect for my chairman of the Committee on Appropriations, the gentleman from Louisiana (Mr. LIVINGSTON) and for his fairness, there is no way we can get this issue of funding for the IMF on the floor as a clean debate, where we vote up or down on IMF funding, without unrelated issues that constitute legislating on appropriations bills, which is against our rules, but has been allowed in regard to this issue.

Mr. Speaker, I strongly support IMF funding. It is definitely jobs in my district. This House bailed out the S&L's because we knew we had to minimize the damage, so we need to involve ourselves in this loan program to contain the Asian problem.

Mr. LIVINGSTON. Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. PAUL).

(Mr. PAUL asked and was given permission to revise and extend his remarks.)

Mr. PAUL. Mr. Speaker, I rise in strong objection to this motion. This should be a very easy vote for all of us; we should all vote no. They already have $35 billion of our money. They want $18 billion more. That is $53 billion.

Think about it. Some of you would like to spend that on the military, on national defense. That would not be too bad an idea. Others might want to spend it on domestic welfare programs. This would be a better idea than bailing out rich bankers and foreign governments. Besides, there are some of us who would like to give the $53 billion back to the American people and lower their taxes. But to give them another $18 billion does not make any sense.

Then to come to us and say it will not cost the taxpayers any money is absurd. Why do they come here and try to sneak through this appropriation with a parliamentary trick, if it is not going to cost the taxpayers any money? Certainly it is going to cost the taxpayers money. It adds to the national debt, and we have to pay interest on the national debt. This is a cost.

Now, the Director of the IMF had an interesting proposal. He said this will not cost us anything because it is coming out of the Central Bank.

Mr. OBEY. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Texas (Mr. STENHOLM).

(Mr. STENHOLM asked and was given permission to revise and extend his remarks.)

Mr. STENHOLM. Mr. Speaker, these elite groups that we heard talked about a moment ago that are sneaking this through include the American Farm Bureau Federation, Dairy Farmers of America, National Cattlemen's Beef Association and, U.S. Wheat Associates.

To all of these who have suggested that we are spending taxpayer money,

you are not reading the facts. You know better than to stand here in the well and tell our colleagues who are not here that we are going to be appropriating this money, when we have not appropriated one penny in the history of the IMF.

Why are we here for the IMF? Because it is in America's best interests. It has been ever since we have had the IMF, and it is today.

To those who want the reforms, I agree with you on that. And let us look at the Wall Street Journal of April 10. ''IMF moves are expected to force open markets.'' We are doing all of the things that critics who usually we agree on are saying we need to do, but the only way we can get it done is to bring this bill and have this action done.

If we had not had this in place, we could not have had GSM–102 funding for agriculture that has been very successful in building up markets.

Mr. STEARNS. Mr. Speaker, will the gentleman yield?

Mr. STENHOLM. I yield to the gentleman from Florida.

Mr. STEARNS. Mr. Speaker, does the gentleman think money grows on trees? Where does the IMF get the money, if Congress does not give it to them? Why are we voting on this tonight, if the gentleman does not think we are going to appropriate? Could the gentleman explain that?

Mr. STENHOLM. Mr. Speaker, reclaiming my time, these are loan funds. When loan funds are granted and paid back, there is no loss to the taxpayers of America. The gentleman knows this and I know this.

Mr. STEARNS. The money is guaranteed by the taxpayers of this country, and the money is given to them.

Mr. STENHOLM. ''Guaranteed'' is correct. But the bottom line is, is it a good investment and for whom is it a good investment? It is a good investment for American agriculture. And to those who continue to drag your feet and say we could not even bring this bill up and consider it, to those who continue to do that, you are in danger of doing irreparable harm to the American farmer and rancher, because we depend upon world trade, and we are a part of a 182-nation group that is attempting to have organized trade.

For us to continue to drag our feet can do irreparable harm to the American farmer, and when you vote no on this, understand that.

Mr. LIVINGSTON. Mr. Speaker, I am happy to yield 1 minute to the gentleman from Ohio (Mr. TRAFICANT).

(Mr. TRAFICANT asked and was given permission to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, this bill is to provide supplemental emergency aid. I thought it was to provide supplemental emergency aid to the Southeast United States of America, not Southeast Asia. I thought it was to provide emergency aid for American citizens, not for foreign citizens.

Leave this bill alone. We were elected to the Congress of the United States, not to the Council of the United Nations. If the International Monetary Fund is worthy, the International Monetary Fund should stand on its own merit, not on the backs of American victims of great disasters which brings us to the floor about this bill.

This is about emergency aid for American families, for victims of great disasters. Leave the bill alone. If you want to do something about the IMF, bring it up; let it stand on its own merits.

Quite frankly, I think we are too international around here, and we should be taking care of the Midwest a hell of a lot more than we take care of these countries overseas.

Mr. OBEY. Mr. Speaker, I yield 30 seconds to the distinguished gentleman from Michigan (Mr. LEVIN).

(Mr. LEVIN asked and was given permission to revise and extend his remarks.)

Mr. LEVIN. Mr. Speaker, this bill does not spend $18 billion, it will not cost $150 to the taxpayers. What will cost the American taxpayer is chaos in Asia. The IMF has made mistakes, but more often than not, it led to liberalization of trade. Look at Poland, Estonia, Uganda and Egypt.

Globalization is changing. For the first time, we have a bill that says an international institution has to pay attention to labor market conditions and the environment. Vote for this instruction.

Mr. LIVINGSTON. Mr. Speaker, I am pleased to yield 2½ minutes to the distinguished gentleman from Texas (Mr. ARMEY), the Majority Leader of the House.

Mr. ARMEY. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, what is this IMF that wants $18 billion of our money? Where did they come from and what do they do? I am shocked and appalled at how little we know about the IMF. We know a little bit about its history, but we do not know a thing about how it does business.

We have an international financial institution that purports to manage international markets and commerce, has failed in its originally intended mission, and now intends to self-describe a new mission so that it can become an international deposit insurance corporation.

It is run by a French Keynesian, who operates the agency at such levels of secrecy that we have no idea how they come by the decisions. It is alleged by many fine scholars to have been the agency that caused the Asian flu first by forcing the Thais to devalue their currency. It seems to have a consistent track record of opposing tax decreases and requiring tax increases.

Now, even for a Keynesian, you have got it backwards. This is the taxpayers' hard-earned dollars. We are being asked by this agency, that operates in secrecy, ''Give us the money, or more catastrophe will come.'' Many fine scholars believe that the catastrophe we have called the Asian flu was, in fact, created by the IMF.

□ 1845

There is an old adage in economics, Mr. Speaker: When the government assumes the risk, nobody assumes the risk. If we have an agency out there with taxpayers' dollars, that sends a message out, Mr. and Mrs. International Investor, irrespective of the denominations in which you will make risky, careless decisions, do not worry about it. We will be there with a bailout, decisions made in countries that practice the worst kinds of failed crony capitalism. No, we need to study this issue. We need to understand this.

I understand that there are industries and sectors of the American economy that feel they themselves are at risk. But will they, in fact, not put their own industries, agriculture, even, at worse risk if, in fact, the IMF is indeed the perpetrator and not the savior in international crises? We need to understand this. They need to come clean.

They need to be willing to tell us who they are, how they do business, how decisions are made, by what criteria, on what empirical data, and through what historical precedents they base their judgments. They have a failed track record. They are not a good bet.

If I were to take $18 of my own money out and bet it on a racehorse, I would not bet it on one that I had observed consistently running the wrong way in the dark of night. No, I would bet it on a racehorse that was running the right way and winning the race.

Members are asking me to bet $18 billion of the taxpayers' money. I am telling the Members, they are asking me to bet on a blind racehorse going the wrong way and dragging too many others with it. I need to know more. It is our duty to know more. If we do not see it as our constitutional duty, let us see it as a matter of the basic, fundamental dignity and integrity of the House of Representatives.

Members could not come to me today through any agency of the American government, working on behalf of the American people immediately and directly, and say, give them $18 billion, no strings attached, no questions asked. We would certainly laugh them out of the body. Why would we do that for an international agency that refuses to reform and refuses to even tell us how they do business?

Certainly, they are a grand institution. Certainly, they are wrapped in wonderful, international mystique. But because they are mysterious, is that the reason to give them more money more easily, with less consideration than we would give even an agency of our own government? No.

The answer is, vote no. We will discuss this at greater length later. We will hold the hearings. We will understand it later better. It just very well

may be that we conclude, after thorough, full, complete understanding that we ought not to bet on this blind horse at any time.

Mr. OBEY. Mr. Speaker, I yield 30 seconds to the gentleman from Texas (Mr. BENTSEN).

Mr. BENTSEN. Mr. Speaker, with all due respect to my colleague from Texas, in the debate I have heard today there are a great deal of Members here who in fact do not understand the IMF and do not understand the situation, but the fact is this. I am not going to get into the details, because I don't have enough time, but if we wanted to, we did not have to take 3 weeks off over the Easter recess. We could have passed the supplemental with the disaster relief. We could have done the work on this. We could have taken several hours and debated the IMF. But the leadership chose not to do that.

We are all paid the same, and we are all here to work. We have important issues we have to deal with. The IMF is a very important issue. If the United States fails to act on this in what is a liquidity facility, the rest of the world will see it, the markets will see it, and the markets will be very efficient in how they will treat it, and we will see what will happen to the East Asian economies and the effect on the American economy.

Mr. OBEY. Mr. Speaker, I yield 3 minutes to the gentleman from Michigan (Mr. BONIOR), the distinguished Minority Whip.

Mr. BONIOR. Mr. Speaker, I thank my colleague for yielding time to me.

Mr. Speaker, I share some of the concerns that have been expressed on this floor this evening. I would not be in this well today to support a bill that endorsed the status quo. This bill is about reform. This vote is about reform.

I want to commend the gentleman from Iowa (Mr. LEACH), the gentleman from New York (Mr. LAFALCE), and the Committee on Banking and Financial Services, who in an overwhelming vote, 40 to 9, endorsed the first major revisions and reform of the International Monetary Fund.

They put for the first time in 50 years working men and women at the table. They put for the first time the concerns of our fragile Earth at the table. They did this in a responsible way. I would have liked more, but I think they did the right thing, and they moved things forward in a responsible way.

Mr. Speaker, this bill sets labor standards and environmental standards and accountability standards and transparency for the IMF in a way that we have never seen before. It will, Mr. Speaker, for the first time, allow people to assemble, to organize, to bargain collectively. It will take on sweatshops and child labor. It will do the things that we all talk about around here, but we have not been able to accomplish through these lending institutions.

So I say to my friends, this is a good bill. Not only will it do it, it will set up a watchdog group, including representatives from business, from labor, from agriculture, and from NGO groups to watch what they are doing and to report back to the public. It will require our Secretary of the Treasury to meet on a regular basis defined in the bill with different groups and issue a report card on how we are doing in these areas.

It is a good piece of legislation. I urge my colleagues to vote yes on the motion to recommit, so we can begin the process of changing how we do business in this world. The world is a different place. These international organizations must reform to the reality of a different place. This bill helps do it.

Mr. LIVINGSTON. Mr. Speaker, I am pleased to yield the balance of my time to the very distinguished Speaker of the House, the gentleman from Georgia (Mr. GINGRICH).

Mr. GINGRICH. Mr. Speaker, I thank very much my friend, the gentleman from Louisiana, for yielding time to me.

Mr. Speaker, let me say that I rise first to point out that the bill which we are actually going to conference on is, in fact, an important, urgent bill. In my State, for example, where we have had significant tornado damage, and my friends from Alabama, who can report on their tornado damage, Tennessee, other places around the country, where there are real problems, we are trying to get the aid to the Federal Emergency Management Administration. That is urgent.

The Secretary of Defense has indicated if we do not get this bill finished and to the President before May 1, that he will have to begin to initiate laying off personnel, laying off contracts, cutting off training. That is urgent. So this is an important supplemental bill that is urgent.

The Committee on Appropriations reported out a second bill, a bill which is not quite on as fast a track, but which will in fact be considered by the House. But I cannot help but draw to the House's attention who has been lecturing us today on international trade: Members who voted against NAFTA, Members who were prepared to vote against fast track, Members who have made a career out of protectionism, Members who are dedicated to not being part of the world market.

They now get up to lecture us, those of us who voted for NAFTA, those of us who supported fast track, those of us who actually believe in the world market, and we are to be told, rush this thing through; make sure that you get $24 billion or $18 billion down to the International Monetary Fund, or whatever number the Secretary of the Treasury sends up. Do not look at it. Do not ask questions about it. Do not explore it. Send the money. Because after all, it is only money.

Now, I believe we have an obligation to the people of America to look critically at the International Monetary Fund. Former Secretary of the Treasury Bill Simon has said, abolish it, it is obsolete. He happens to be a man who has made a great deal of money in international trade. But ignore him for a moment.

Former Secretary of State, former Secretary of the Treasury, former Secretary of Commerce, former Secretary of Labor, this is all the same person, George Schultz at Stanford University, one of the most respected international figures in American government history, has said, abolish it, it is obsolete, it no longer serves a function. When Bretton Woods died, it died. It is a large, expensive bureaucracy finding a new excuse to mess things up.

But we are not suggesting that we abolish it. We are suggesting we ask some questions. For example, the International Monetary Fund is consistently wrong. There is a very significant report that says it is the IMF which caused the bank crisis in Indonesia. There is a significant study which says it is the IMF which caused Thailand first to quit fixing its money, then to float its money, and then to suffer from an economic disaster. We know from Latin America it is routine for the International Monetary Fund to go in and say, raise taxes; take care of the international banks, but raise taxes.

Let us talk about the crisis in banking. Two major U.S. banks reported yesterday that they had had record profits. None of the big banks are suffering out of Indonesia. They have made their money. They are not suffering out of South Korea. But what does the International Monetary Fund answer? Raise taxes on the working poor.

I hear people come to this floor who claim they represent the workers, who say they are for an international bank institution that is totally secret, that is run by a bureaucrat whose major policy is to raise taxes on workers in the Third World to pay off New York banks. That does not sound like populism to me.

But let me go a step further. We were told at Thanksgiving, I got the phone calls, big crisis in Asia, everything is going to collapse by Christmas. We were told at Christmas, big crisis in Asia, everything is going to collapse by mid January. We were told in January, big crisis, might even lead to a war in Korea. We were told in February, big crisis, could be bad by March.

But do Members know what we were told, over and over? Japan is not the problem, because all of Japan's debt is denominated in yen, and the Japanese can cope with it, and they have $270 billion in reserve. Do Members know what the statement was this week? We have to have this money for Japan; which is, by the way, intellectually nonsense, because the IMF does not have enough money to deal with Japan.

So what is really at stake here? We believe, on behalf of the taxpayers, that we have the right as the Congress to ask some very tough questions of a

multi-billion dollar bureaucratic institution that is totally secret.

I will start with question number one: If they think tax increases are so good, how come no staff member of the IMF pays any taxes anywhere in the world? They do not pay taxes in the U.S., and they do not pay taxes in their home country. So the French leader of the IMF pays no taxes in socialist France while advocating tax increases. Maybe if the IMF staff paid taxes, they would not be as excited about tax increases.

Let me give just one quick example of how out of touch with reality the IMF is. This is their annual report for 1997 in which they recommend that we not have tax cuts because they are worried that the budget will not be balanced. This is their annual report leading into this year.

Now, we are the most transparent Nation in the world. There is more information available about us than any other country. We are going to have a surplus this year of somewhere between $18 billion, the inaccurate low and defensive Congressional Budget Office number, because they are like the IMF, they are bureaucrats, and the free market estimate of $50 to $80 billion.

If the IMF is wrong about the surplus of the United States of America, when it is headquartered in Washington, could it be possible that their bureaucrats do not have a clue about how the modern, instantaneous real-time worldwide money markets work, and could it be possible that their advice is consistently wrong?

They said as late as July 28, 1997, that, ''Many directors also indicated that a faster pace of fiscal consolidation by bringing forward spending cuts and delaying tax cuts than that envisioned in the balanced budget agreement would help to contain demand pressures and enhance the plan's credibility, as well as increase the latitude for countercyclical fiscal policy.''

What does that mean? It means as late as July last year, when we were bringing the budget agreement to the floor, they were against tax cuts, they were for deeper spending cuts. They did not have a clue about the politics of the country their headquarters is in, and their policy was exactly backwards.

□ 1900

It was a big tax increase, big government, socialized policy.

So here is my proposition. We have several hearings coming up. The Joint Economic Committee under Chairman SAXTON will be holding hearings. Former Secretary George Schultz has agreed to come and testify. Others will be asked to testify. I am certain our friends on the left who would like to have more taxes and bigger bureaucracy will have a chance to come and testify.

When we have finished the hearings and we are prepared to have appropriate requirements to get transparency and accountability out of the International Monetary Fund, we will bring an appropriate bill to the floor this year in the appropriate way.

But for my friends who are protectionists, who opposed NAFTA and who opposed Fast Track, to come to the floor and lecture the rest of us on the world market and demand that we move in ignorance now, before we can learn anything, I think is highly inappropriate.

I hope every Member will vote this down on behalf of defending the American taxpayer, so we can get an effective IMF program that in fact truly helps American agriculture and truly helps American exporters.

Mr. OBEY. Mr. Speaker, I yield myself 10 seconds.

Mr. Speaker, I would simply say to the distinguished Speaker, those of us who voted against NAFTA and Fast Track want to be involved in the world market, but in ways that are fair to workers and not just investors and CEOs.

Mr. Speaker, I yield the balance of my time to the distinguished gentleman from Missouri (Mr. GEPHARDT), the minority leader.

(Mr. GEPHARDT asked and was given permission to revise and extend his remarks.)

Mr. GEPHARDT. Mr. Speaker, I urge Members to vote for this motion to instruct. I obviously reject the Speaker's categorization of some of us as protectionists. I voted for Fast Track when George Bush was President. I voted for the WTO. I stand ready to vote for Fast Track for President Clinton if we can have the proper provisions to recognize the rights and the needs of workers and the environment. I was ready to vote for a NAFTA that had sufficient teeth in the side agreements.

To refresh everybody's memory, it was not long ago that the Speaker and I were called to the White House with then Majority Leader Dole and Mr. DASCHLE, and the President and Bob Rubin and Allen Greenspan told us that there was a crash happening in Mexico, this was after NAFTA was passed, and that we needed to replenish funds for the IMF so that Mexico could be bailed out.

We all said that we thought it was necessary to do that because there was no good for America in Mexico going bankrupt. But after we came back to the House and consulted on both sides of the aisle, we found there was not a good deal of support for doing that. And so the President, using a Justice Department opinion, decided to go ahead with that loan.

One of the reasons they felt it was important to do that was because while Mexico was going down, something was happening that none of them had ever seen before. That was, developing countries' economies all over the world, Thailand, Indonesia, were going down.

Mr. Speaker, we are in a new world. And in that new world, technology has put us at a point where when one developing country has a horrible problem it begins to invade the economies of all the developing countries in the world. I believe the President did the right thing in using the IMF and Treasury funds to do something to help Mexico. As a result of that, the problem was stemmed across the world. Mexico is paying that loan off. In fact, most of it is already paid off with interest.

The problem we face now is greater than the problem we faced with Mexico because it is not just one country that is experiencing trouble, it is six or seven or eight in Asia.

Now, the Speaker says there is no rush and that he thought people were kind of overstating the problem a few months ago. Well, I do not think they were overstating the problem. But they were able, because they had funds available to commit, to go to these countries and to keep them from going into bankruptcy. So because of the existence of the IMF and the ability to do this, we have avoided tremendous problems.

There is no good for any worker or any business in the United States to have any of these countries fail. Even with that in place, they may fail. And when we criticize the IMF, and I am sure there is a lot to criticize, I think we have to keep in our mind a little bit of humility about what is going on here. Let us face it, nobody at the IMF, nobody at Treasury, nobody at the World Bank, and I dare say nobody in the world really knows how to do what we are trying to do.

We are literally trying to build a new architecture in our world for world trade. The truth is crony capitalism is not consistent with capitalism. And I now believe we cannot really have capitalism unless we ultimately have democracy and human rights. But we also know we cannot get those things to be achieved overnight, and so we have got to have a little bit of humility about what we know will work and what can bring these countries back to economic health.

Mr. Speaker, it is great to have a pledge that we may get to vote on this before the year is out. We could wake up tomorrow morning or next month or the month after that and be in a world of trouble. The IMF, the truth is, does not have the ability to deal with these problems now. We have a chance tonight to vote to instruct the conferees to try to pull some of this funding into this bill. We may be sorry, we all may be sorry, if this bill does not contain the monies that the IMF needs.

This is an important moment. None of us will like a world that is in free fall, and it will be in free fall very quickly if they cannot move and act to stem problems that we have never seen before in the history of the world.

I ask Members and beseech Members to act responsibly tonight and vote ''yes'' for this motion to instruct, so we have a chance to bring to this bill the kind of funding that it needs for the good of the world.

The SPEAKER pro tempore (Mr. SNOWBARGER). All time has expired.

Without objection, the previous question is ordered on the motion to instruct.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentleman from Wisconsin (Mr. OBEY).

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. OBEY. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 186, noes 222, not voting 24, as follows:

[Roll No. 109]

AYES—186

Abercrombie	Hefner	Neal
Ackerman	Hilliard	Ney
Allen	Hinchey	Nussle
Andrews	Hinojosa	Oberstar
Baesler	Holden	Obey
Baldacci	Hooley	Olver
Barrett (NE)	Houghton	Owens
Barrett (WI)	Hoyer	Pallone
Becerra	Jackson (IL)	Pascrell
Bentsen	Jackson-Lee (TX)	Pastor
Bereuter	John	Payne
Berman	Johnson (CT)	Pelosi
Blagojevich	Johnson (WI)	Pickett
Blumenauer	Johnson, E. B.	Pomeroy
Bonior	Kanjorski	Porter
Borski	Kennedy (MA)	Price (NC)
Boswell	Kennedy (RI)	Rangel
Boucher	Kennelly	Rivers
Boyd	Kildee	Rodriguez
Brown (CA)	Kilpatrick	Roemer
Brown (FL)	Kind (WI)	Rothman
Capps	Kleczka	Roukema
Cardin	Kolbe	Roybal-Allard
Castle	LaFalce	Rush
Christensen	LaHood	Sabo
Clayton	Lampson	Sanchez
Clement	Lantos	Sandlin
Clyburn	Latham	Sawyer
Coyne	LaTourette	Schumer
Cramer	Lazio	Scott
Cummings	Leach	Serrano
Davis (FL)	Lee	Shays
Davis (IL)	Levin	Sherman
Davis (VA)	Lewis (GA)	Sisisky
DeGette	Lofgren	Skaggs
Delahunt	Lowey	Skeen
DeLauro	Luther	Skelton
Deutsch	Maloney (CT)	Slaughter
Dicks	Maloney (NY)	Smith, Adam
Dingell	Manton	Snyder
Doggett	Markey	Spratt
Dooley	Martinez	Stabenow
Edwards	Mascara	Stenholm
Engel	Matsui	Stokes
Eshoo	McCarthy (MO)	Stupak
Etheridge	McCarthy (NY)	Tauscher
Farr	McDermott	Thurman
Fawell	McGovern	Tierney
Fazio	McHale	Torres
Ford	McIntyre	Towns
Frank (MA)	McNulty	Turner
Frost	Meehan	Velazquez
Furse	Meeks (NY)	Vento
Gejdenson	Menendez	Visclosky
Gephardt	Millender-McDonald	Waters
Gilchrest	Minge	Watt (NC)
Gilman	Mink	Waxman
Gordon	Moakley	Wexler
Green	Moran (VA)	Weygand
Gutierrez	Murtha	Wise
Hall (OH)	Nadler	Woolsey
Hamilton		Wynn
Harman		

NOES—222

Aderholt	Ballenger	Bass
Archer	Barcia	Berry
Armey	Barr	Bilbray
Bachus	Bartlett	Bilirakis
Baker	Barton	Bishop
Bliley	Granger	Pickering
Blunt	Greenwood	Pitts
Boehlert	Gutknecht	Pombo
Bonilla	Hall (TX)	Portman
Bono	Hansen	Pryce (OH)
Brady	Hastings (WA)	Quinn
Brown (OH)	Hayworth	Radanovich
Bryant	Hefley	Rahall
Bunning	Herger	Ramstad
Burton	Hill	Redmond
Buyer	Hilleary	Regula
Callahan	Hobson	Riggs
Calvert	Hoekstra	Riley
Camp	Horn	Rogan
Campbell	Hostettler	Rogers
Canady	Hulshof	Rohrabacher
Cannon	Hunter	Ros-Lehtinen
Carson	Hutchinson	Royce
Chabot	Hyde	Ryun
Chambliss	Inglis	Salmon
Chenoweth	Jenkins	Sanders
Coburn	Johnson, Sam	Sanford
Collins	Jones	Saxton
Combest	Kasich	Scarborough
Condit	Kelly	Schaefer, Dan
Conyers	Kim	Schaffer, Bob
Cook	King (NY)	Sensenbrenner
Cooksey	Kingston	Sessions
Costello	Klink	Shadegg
Cox	Klug	Shaw
Crane	Knollenberg	Shimkus
Crapo	Kucinich	Shuster
Cubin	Largent	Smith (MI)
Cunningham	Lewis (CA)	Smith (NJ)
Danner	Lewis (KY)	Smith (OR)
Deal	Linder	Smith (TX)
DeFazio	Lipinski	Smith, Linda
DeLay	Livingston	Snowbarger
Diaz-Balart	LoBiondo	Solomon
Dickey	Lucas	Souder
Doolittle	Manzullo	Spence
Doyle	McCollum	Stearns
Dreier	McCrery	Strickland
Duncan	McDade	Stump
Dunn	McHugh	Sununu
Ehlers	McInnis	Talent
Ehrlich	McIntosh	Tauzin
Emerson	McKeon	Taylor (MS)
English	McKinney	Taylor (NC)
Ensign	Metcalf	Thomas
Evans	Mica	Thompson
Everett	Miller (CA)	Thornberry
Ewing	Mollohan	Thune
Filner	Moran (KS)	Tiahrt
Foley	Myrick	Traficant
Fossella	Nethercutt	Upton
Fowler	Neumann	Walsh
Franks (NJ)	Northup	Wamp
Frelinghuysen	Norwood	Watkins
Gallegly	Ortiz	Watts (OK)
Ganske	Oxley	Weldon (FL)
Gekas	Packard	Weldon (PA)
Gibbons	Pappas	Weller
Gillmor	Parker	White
Goode	Paul	Whitfield
Goodlatte	Pease	Wicker
Goodling	Peterson (MN)	Wolf
Goss	Peterson (PA)	Young (AK)
Graham	Petri	Young (FL)

NOT VOTING—24

Bateman	Fox	Miller (FL)
Boehner	Gonzalez	Morella
Burr	Hastert	Paxon
Clay	Hastings (FL)	Poshard
Coble	Istook	Reyes
Dixon	Jefferson	Stark
Fattah	Kaptur	Tanner
Forbes	Meek (FL)	Yates

□ 1929

Ms. MCKINNEY and Mr. BLUNT changed their vote from ''aye'' to ''no.''

So the motion to instruct was rejected.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. ISTOOK. Mr. Speaker, I regret I could not be present to vote on the Motion to Instruct Conferees on IMF funding. I am attending a special family milestone—my oldest son's graduation from college. Had I been present I would have voted Nay.

□ 1930

The SPEAKER pro tempore (Mr. LAHOOD). Without objection, the Chair appoints the following conferees: Messrs. LIVINGSTON, MCDADE, YOUNG of Florida, REGULA, LEWIS of California, PORTER, ROGERS, SKEEN, WOLF, KOLBE, PACKARD, CALLAHAN, WALSH, OBEY, YATES, STOKES, MURTHA, SABO, FAZIO of California, HOYER; Ms. KAPTUR and Ms. PELOSI.

There was no objection.

APPOINTMENT OF CONFEREES ON H.R. 3130, CHILD SUPPORT PERFORMANCE AND INCENTIVE ACT OF 1998

Mr. DAVIS of Florida. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 3130) to provide for an alternative penalty procedure for States that fail to meet Federal child support data processing requirements, to reform Federal incentive payments for effective child support performance, to provide for a more flexible penalty procedure for States that violate interjurisdictional adoption requirements, to amend the Immigration and Nationality Act to make certain aliens determined to be delinquent in the payment of child support inadmissible and ineligible for naturalization, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and request a conference with the Senate thereon.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida? The Chair hears none and, without objection, appoints the following conferees:

From the Committee on Ways and Means, for consideration of the House bill and Senate amendments and modifications committed to conference:

Messrs. ARCHER, SHAW, CAMP, RANGEL, and LEVIN.

As additional conferees from the Committee on Education and the Workforce, for consideration of section 401 of the Senate amendment and modifications committed to conference:

Messrs. GOODLING, FAWELL, and PAYNE.

There was no objection.

APPOINTMENT OF ADDITIONAL CONFEREES ON H.R. 2400, BUILDING EFFICIENT SURFACE TRANSPORTATION AND EQUITY ACT OF 1998

The SPEAKER pro tempore. Without objection, the Chair appoints the following additional conferees on H.R. 2400:

As additional conferees from the Committee on Science, for consideration of section 312(d) and Title VI of the House bill and sections 1119, 1206, and Title II of the Senate bill and modifications committed to conference:

Mr. SENSENBRENNER, Mrs. MORELLA, and Mr. BROWN of California.

There was no objection.

The SPEAKER pro tempore. The Speaker will appoint additional conferees at a subsequent time.

The Clerk will inform the Senate of the change in conferees.

LEGISLATIVE PROGRAM

(Mr. B0NIOR asked and was given permission to address the House for 1 minute.)

Mr. BONIOR. Mr. Speaker, I yield to the gentleman from Texas (Mr. DELAY) to inquire from the distinguished Majority Whip the schedule for today, the rest of the week, and next week.

Mr. DELAY. Mr. Speaker, I appreciate my friend the gentleman from Michigan (Mr. BONIOR), the distinguished Minority Whip, yielding to me.

I am pleased to announce, Mr. Speaker, that we have concluded legislative business for the week. The House will next meet on Monday, April 27, for a pro forma session. There will be no legislative business and no votes that day.

On Tuesday, April 28, the House will meet at 12:30 p.m. for the morning hour and 2 p.m. for legislative business.

On Tuesday, we will consider a number of bills under suspension of the rules, a list of which will be distributed to Members' offices. Members should note that we do not expect any recorded votes before 5:00 on Tuesday, April 28.

On Wednesday, April 29, and Thursday, April 30, the House will meet at 10 a.m. to consider the following legislation:

A bill to establish a prohibition regarding illegal drugs and the distribution of hypodermic needles; H.R. 6, the Higher Education Amendment of 1998; H.R. 1872, the Communications Satellite Competition and Privatization Act of 1997; H.R. 3546, the National Dialogue on Social Security Act of 1998; and S. 1502, the District of Columbia Student Opportunity Scholarship Act of 1997.

Next week, we also hope to consider the conference report to the Emergency Supplemental Appropriations Act.

Mr. Speaker, we hope to conclude legislative business for the week by 6 p.m. on Thursday, April 30.

I thank the gentleman for yielding.

Mr. BONIOR. Mr. Speaker, reclaiming my time, would the gentleman entertain a few questions?

Mr. DELAY. Mr. Speaker, I would be glad to.

Mr. BONIOR. Campaign finance reform. When? When do we expect to have that before the body?

Mr. DELAY. Well, as the gentleman knows, we are all excited about bringing campaign finance reform to the floor.

Mr. BONIOR. I can tell on your face that you are just overjoyed.

Mr. DELAY. And we hope to bring the campaign finance reform when it has had open and fair discussion sometime in May. Certainly, I would expect we would hope before the Memorial Day recess.

Mr. BONIOR. We do not know that it is going to be before the Memorial Day recess? Is that still in doubt?

Mr. DELAY. Anything in this body is in doubt, as the gentleman knows. We are working on it. We hope the committees to work on the bill and bring it to the floor as soon as we can.

Mr. BONIOR. I would encourage my friend, the gentleman from New York (Mr. SOLOMON), the chairman of the Committee on Rules, to engage in this if he would like. Are we expecting an open rule on campaign finance?

I yield to my friend from New York.

Mr. SOLOMON. Yes, we are. The arrangement that was made on both sides of the aisle on a bipartisan basis was to have a freshmen bipartisan bill as the base text and then allow any of the germane substitutes that would be offered to it.

Mr. BONIOR. Repeat the last part.

Mr. SOLOMON. Would allow any germane substitutes that are credible to be allowed to be debated for at least 1 hour.

Mr. BONIOR. And does my colleague expect the Shays-Meehan piece to be a part of that?

Mr. SOLOMON. The Shays-Meehan, if it stays in the form it is in now, it would be germane and it would be allowed to be brought to the floor.

Mr. BONIOR. Let me ask this question of the gentleman.

Some of us on this side of the aisle and on your side of the aisle think another approach that might be worth debating and discussing is the constitutional approach, trying to correct some of these problems through the constitutional route, given the court rulings with respect to participation in the system and limitations on spending.

Would the gentleman be entertaining opportunities for us to offer those type of remedies to our present predicament?

Mr. SOLOMON. Constitutional amendments are joint resolutions, as the gentleman knows. And we can talk about it, but that is not a part of the arrangement that was allowed.

Mr. DELAY. If the gentleman would yield. Certainly the gentleman is not talking about limiting the jurisdiction of judges, is he?

Mr. BONIOR. No, that was your exercise today.

My friend from New York said that this was an arrangement that was made by both sides. Can he apprise us who he talked to on our side, who his leaders talked to with respect to agreeing on what the base bill was? I mean, I do not know of anybody on our side of the aisle that participated in any discussions with him on this.

Mr. SOLOMON. I will tell the gentleman, I do not know who else was spoken to. I see my good friend Sean Connery, no, that is not Sean Connery, that is the gentleman from Massachusetts (Mr. MOAKLEY) standing over there; and I sat down with him and explained what we had in mind and it would be open and fair and every single Member of this House will be able to work their will as long as they have a credible plan, which we can discuss. And, as I told the gentleman from Massachusetts (Mr. MOAKLEY), we will make those substitutes in order.

Mr. BONIOR. Well, we are hoping that when the committee meets, the Committee on Rules, that the options available for a full debate and opportunities to debate the wide variety of proposals that are out there, including constitutional provisions, will be available to Members.

And that is all we have asked for with the discharge petition that we initiated, and we hope that we can move on and have a good debate on those issues.

Mr. SOLOMON. I think my colleague will be excited and happy with the rule that the gentleman from Massachusetts (Mr. MOAKLEY) and I will bring to the floor.

Mr. BONIOR. Mr. Speaker, I thank my friend from Texas, and I wish both my colleagues a very pleasant weekend.

Mr. DELAY. I wish my colleague a very pleasant weekend. I hear the weather is nice in Michigan.

Mr. BONIOR. Great mellow moments in the House of Representatives.

ADJOURNMENT TO MONDAY, APRIL 27, 1998

Mr. DELAY. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet at 2 p.m. on Monday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

HOUR OF MEETING ON TUESDAY, APRIL 28, 1998

Mr. DELAY. Mr. Speaker, I ask unanimous consent that when the House adjourns on Monday, April 27, 1998, it adjourn to meet at 12:30 p.m. on Tuesday, April 28, 1998, for morning hour debates.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. DELAY. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

UNFAIRNESS IN TAX CODE: MARRIAGE TAX PENALTY

(Mr. WELLER asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous material.)

Mr. WELLER. Mr. Speaker, a series of very simple questions state why passage of the Marriage Tax Elimination Act is so important. Do Americans feel it is fair that our Tax Code punishes marriage with a higher tax? Do Americans feel that it is fair that 21 million married working couples with two incomes pay on the average $1,400 more in taxes just because they are married? Do Americans feel that it is right that our Tax Code actually provides an incentive to get divorced?

Of course not. Americans recognize the marriage tax penalty is wrong; it is unfair; it is immoral. They also recognize that 21 million married working couples are paying $1,400 more. In the south side of Chicago, in the south suburbs, $1,400 dollars is real money for real people, one year's tuition at Joliet Junior College or 3 months of day care at a local day care center.

The Marriage Tax Elimination Act has 238 cosponsors, a majority of the House. Let us eliminate the marriage tax penalty. Let us eliminate it now.

Mr. Speaker, I rise today to highlight what is arguably the most unfair provision in the U.S. Tax code: the marriage tax penalty. I want to thank you for your long term interest in bringing parity to the tax burden imposed on working married couples compared to a couple living together outside of marriage.

In January, President Clinton gave his State of the Union Address outlining many of the things he wants to do with the budget surplus.

A surplus provided by the bipartisan budget agreement which: cut waste; put America's fiscal house in order; and held Washington's feet to the fire to balance the budget.

While President Clinton paraded a long list of new spending totaling at least $46–$48 billion in new programs—we believe that a top priority should be returning the budget surplus to America's families as additional middle-class tax relief.

This Congress has given more tax relief to the middle class and working poor than any Congress of the last half century.

I think the issue of the marriage penalty can best be framed by asking these questions: Do Americans feel it's fair that our tax code imposes a higher tax penalty on marriage? Do Americans feel it's fair that the average married working couple pays almost $1,400 more in taxes than a couple with almost identical income living together outside of marriage? Is it right that our tax code provides an incentive to get divorced?

In fact, today the only form one can file to avoid the marriage tax penalty is paperwork for divorce. And that is just wrong!

Since 1969, our tax laws have punished married couples when both spouses work. For no other reason than the decision to be joined in holy matrimony, more than 21 million couples a year are penalized. They pay more in taxes than they would if they were single. Not only is the marriage penalty unfair, it's wrong that our tax code punishes society's most basic institution. The marriage tax penalty exacts a disproportionate toll on working women and lower income couples with children. In many case sit is a working women's issue.

Let me give you an example of how the marriage tax penalty unfairly affects middle class married working couples.

For example, a machinist, at a Caterpillar manufacturing plant in my home district of Joliet, makes $30,500 a year in salary. His wife is a tenured elementary school teacher, also bringing home $30,500 a year in salary. If they would both file their taxes as singles, as individuals, they would pay 15%.

MARRIAGE PENALTY EXAMPLE IN THE SOUTH SUBURBS

	Machinist	School Teacher	Couple
Adjusted gross income	$30,500	$30,500	$61,000
Less personal exemption and standard deduction	6,550	6,550	11,800
Taxable income	23,950	23,950	49,200
Tax liability	3592.5	3592.5	8563

Marriage penalty: $1378.

But if they chose to live their lives in holy matrimony, and now file jointly, their combined income of $61,000 pushes them into a higher tax bracket of 28 percent, producing a tax penalty of $1400 in higher taxes.

On average, America's married working couples pay $1,400 more a year in taxes than individuals with the same incomes. That's serious money. Every day we get closer to April 15th more married couples will be realizing that they are suffering the marriage tax penalty.

Particularly if you think of it in terms of: a down payment on a house or car; one year's tuition at a local community college; or several months' worth of quality child care at a local day care center.

To that end, Congressman DAVID MCINTOSH and I have authored the Marriage Tax Elimination Act.

It would allow married couples a choice in filing their income taxes, either jointly or as individuals—whichever way lets them keep more of their own money.

Our bill already has the bipartisan cosponsorship of 232 Members of the House and a similar bill in the Senate also enjoys widespread support.

It isn't enough for President Clinton to suggest tax breaks for child care. The President's child care proposal would help a working couple afford, on average, three weeks of day care. Elimination of the marriage tax penalty would give the same couple the choice of paying for three months of child care or addressing other family priorities. After all, parents know better than Washington what their family needs.

We fondly remember the 1996 State of the Union address when the President declared emphatically that, quote ''the era of big government is over.''

We must stick to our guns, and stay the course.

There never was an American appetite for big government.

But there certainly is for reforming the existing way government does business.

And what better way to show the American people that our government will continue along the path to reform and prosperity than by eliminating the marriage tax penalty.

Ladies and gentlemen, we are on the verge of running a surplus. It's basic math.

It means Americans are already paying more than is needed for government to do the job we expect of it.

What better way to give back than to begin with mom and dad and the American family—the backbone of our society.

We ask that President Clinton join with Congress and make elimination of the marriage tax penalty . . . a bipartisan priority.

Of all the challenges married couples face in providing home and hearth to America's children, the U.S. tax code should not be one of them.

Let's eliminate the marriage tax penalty and do it now!

WHICH IS BETTER?

Note: The President's Proposal to expand the child care tax credit will pay for only 2 to 3 weeks of child care. The Weller-McIntosh Marriage Tax Elimination Act, H.R. 2456, will allow married couples to pay for 3 months of child care.

Which is better, 3 weeks or 3 months?

CHILD CARE OPTIONS UNDER THE MARRIAGE TAX ELIMINATION ACT

	Average tax relief	Average weekly day care cost	Weeks day care
Marriage Tax Elimination Act	$1,400	$127	11
President's child care tax credit	358	127	2.8

AMERICAN PEOPLE HAVE BEEN THE BENEFICIARIES OF A BALANCED BUDGET

(Mr. ABERCROMBIE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ABERCROMBIE. Mr. Speaker, I was privileged to be on the floor of the House of Representatives when the President's budget passed in 1993, that budget at the time denounced so severely by many critics of the President and what he was trying to accomplish.

I think, some 5 years later, we found that all of the goals have been in fact accomplished with respect to balancing the budget; and, most particularly, we find ourselves in a situation with low interest rates and the ability of people to take advantage of the home interest deduction they might not otherwise have had.

As a result, Mr. Speaker, I hope there is a recognition that this was the right course to take, that the American people have been the beneficiaries, that home ownership has been advanced, and that these 5 years provide a record of accomplishment of which we can all be proud.

Mr. Speaker, Today, many if not every Member of Congress is going to receive a visit by realtors from our districts.

I look forward to meeting today with the members of the Hawaii Association of Realtors on their annual trip to Washington.

I know one of their top priorities is preserving the home mortgage interest deduction. I stand with them completely on this issue.

As the House moves closer to developing a tax bill in the months ahead, it is vitally important that we preserve the mortgage interest deduction. It is fundamental of fulfilling the American dream of home ownership.

I am concerned that proposals for a flat tax or a national sales tax would endanger the mortgage interest deduction.

The mortgage interest deduction in important to Hawaii, where the average cost of a single family home is $312,000.

It is estimated that eliminating the mortgage interest deduction could cause the value of existing homes to drop between 20–30 percent.

As we in Hawaii face our greatest economic challenge since statehood, elimination of the mortgage interest deduction would be a disaster.

Homeowners would suffer a disastrous loss of equity. Thousands of realtors, construction workers, and employees of financial institutions would lose their livelihoods.

Mr. Speaker, I urge may colleagues to join me in fighting any attempt to eliminate the home mortgage deduction.

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. LAHOOD). Under the Speaker's announced policy of January 7, 1997, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

REGARDING THE PRESIDENT'S TAX PARTY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. DELAY) is recognized for 5 minutes.

Mr. DELAY. Mr. Speaker, we would like to have gone into recess a few minutes ago, but the staff of the House has convinced me otherwise. But we wanted to go into recess to give time for our Democrat colleagues to go down to the White House so that they could celebrate.

And why are they celebrating? They are celebrating those Members of Congress who voted for the largest tax increase in the history of this country. We want to make sure they all were able to get down to the White House in a timely fashion. Included in that group are several former Members of Congress who lost because of that vote.

I am not kidding. This is not April Fool's Day. This is actually happening down at the White House as we speak. Do not worry, though. There will not be any Republicans invited to the White House tonight because not one Republican voted for the largest tax increase in history and so none of us got an invitation.

But down in my office right now we are having hot dogs and pizza to celebrate the fact that we voted for tax cuts last year. We are going to vote for tax cuts again this year. We are going to vote for tax cuts again next year. We will vote for tax cuts every year we are in the majority.

And we will continue to want to cut taxes for America's working families. Because we understand that over 50 percent of a family's income goes to the Government. If you add up State, local and Federal taxes and the cost of regulation, 50 cents out of every hard-earned dollar that the American family makes today goes to the government. No wonder our families are in strain. No wonder it takes one parent to work for the Government while the other parent works for the family.

But Democrats, on the other hand, love to raise taxes. One prominent Democrat admitted that Democrats just do not like to cut taxes, they like to raise taxes. They think cutting taxes is irresponsible.

□ 1945

They think raising taxes is responsible. Can we remember the debates of 1995 and 1996? Everybody said we cannot cut taxes and balance the budget; that is irrelevant, and it is crazy. Well, we did it last year. We cut taxes on the American family. We had the first balanced budget agreement in I do not know how many years.

But this is why they are usually responsible for increasing those taxes. Now, make no mistake about it, the Democrat budget not only increased taxes, it also increased spending and deepened the deficit. Now the Republican budget, the budget we passed in 1995, cut taxes and balanced the budget.

So the lesson here is very simple. If we want higher taxes and more Washington spending and higher deficits, then the American people need to vote for the Democrats. If we want lower taxes and a balanced budget and sensible government spending, then they should vote for the Republicans.

So I hope my friends are enjoying themselves down at the White House tonight. But their party's commitment to higher taxes is no party.

Mr. TAYLOR of Mississippi. Mr. Speaker, will my friend the gentleman from Texas yield?

Mr. DELAY. I will be glad to yield.

Mr. TAYLOR of Mississippi. Mr. Speaker, I am not going to argue with the gentleman on the tax increases, but it is misleading to the American people to say that this Congress has passed a balanced budget. They did not.

Mr. DELAY. Well, the gentleman reads a different budget.

Mr. TAYLOR of Mississippi. The budget plan that you passed——

Mr. DELAY. Mr. Speaker, I have the time, and I am reclaiming the time and I am going to answer the gentleman's statement.

Mr. TAYLOR of Mississippi. But, please, the American public needs to know we are not there yet.

The SPEAKER pro tempore (Mr. LAHOOD). The gentleman from Texas has the time.

Mr. DELAY. Mr. Speaker, the gentleman does not know what unified budgeting is. The gentleman obviously does not know. I agree with the gentleman that we have a huge surplus that we are spending on government spending. But if we take all the spending and all the tax revenues, then we are in surplus.

I want, as the gentleman wants, I am sure, I want to make it a true balanced budget by taking the Social Security surplus and not spend it on government spending. If the gentleman will work with me, I guarantee we will come up with a budget that will accomplish that. I think I have the credibility to do that.

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from the District of Columbia (Ms. NORTON) is recognized for 5 minutes.

(Ms. NORTON addressed the House. Her remarks will appear hereafter in the Extension of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Maryland (Mrs. MORELLA) is recognized for 5 minutes.

(Mrs. MORELLA addressed the House. Her remarks will appear hereafter in the Extension of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Indiana (Ms. CARSON) is recognized for 5 minutes.

(Ms. CARSON addressed the House. Her remarks will appear hereafter in the Extension of Remarks.)

PUT SOCIAL SECURITY FIRST

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. SMITH) is recognized for 5 minutes.

Mr. SMITH of Michigan. Mr. Speaker, I think it is reasonable to carry on the discussion of what has happened in the last 5 years. I was elected, and my first year in Congress was 1993. In that year we had a deficit under the unified budget of $322 billion. In the next, that year for the budget for 1994, President Clinton sent us a budget with a deficit of $265 billion, a deficit in terms of a unified budget.

So it was not only on the $265 billion that we were short, it was also what we were short borrowing from the Social Security Trust Fund and the other trust funds of this country.

I think, number one, we have got to start being very honest with the American people of what has happened. When the Republicans took the majority of this House in 1995, we changed the budget and started rescissions and started cutting down spending, getting rid of one-third of the staff in this Congress, cutting out committees, cutting out up to 200 different agencies and departments and divisions to try to reach a balanced budget.

The Republicans really were demagogued in that election that eventually followed because we were doing all sorts of budget cuts, cutting down on the spending of the Federal Government in order to get a balanced budget.

We ended up winning. We ended up in the spring of 1996 sending a reconciliation bill to the President saying the

operational budget, to keep government open, to keep it operating, is not going to go into effect, Mr. President, unless you send Congress a balanced budget.

Finally, the President did send Congress a balanced budget, and now we have moved ahead. We have reframed the debate in Washington, D.C. so both sides of the aisle are now saying, great, we need a balanced budget. Let us be more frugal in our spending.

We have come a long ways, but we have still got a long ways to go. We have got a long ways to go because we are still borrowing the money that is coming in surplus from the Social Security Trust Fund to use for other government spending, and that has got to stop.

Here is my proposal of how we stop it. I introduced the only Social Security bill that has been introduced in the last session of Congress three years ago and again this session that has been scored by the Social Security Administration to keep Social Security solvent. So if we really want to put Social Security first, let us stop talking about it and start doing it.

Now that we are looking at a surplus in terms of the unified budget that is coming in this year, and the estimates are as high now as a $40 to $50 billion surplus. Let us start taking that surplus money and allowing workers in this country to have their own personal retirement savings account that will partially offset their fixed benefits and Social Security eventually when they are ready to retire.

But giving these workers some of this surplus money that is coming in, which is, after all, overtaxation, allowing them to see the creation of wealth, allowing them to see the magic of compounding interest where our money can double every 4 or 6, 8 years; and when we are ready for retirement at age 65, we are going to see much more money in those funds.

So with even a partial offset, in my bill that I call for using these surplus monies to beef up Social Security, to start down the road of solvency, I am suggesting that for each $2 these people earn in the investment market of limited investments, of so-called safe investments, for every $2 they earn there be a $1 offset in their Social Security benefits, so there is really a safety net.

But what we have got to do is make sure that existing retirees continue to have the benefits that have been promised to them, but at the same time we make provisions that our kids and our grandkids and our kids' grandkids and great-grandkids can have an opportunity to have even more revenue returns in their retirement years.

Look, we have got a demographic situation where there are fewer workers paying in their FICA taxes to more and more retirees. When we started out in 1935 we had an average age life-span of 62 years old. That meant most people that paid into Social Security all their working life never received any benefits.

Now the average age of mortality, the life-span today at birth is 74 years old for a male, 76 years old for a female. But if we live to be 65 years old, then on the average we are going to live another 20 years. Let us get at it. Let us really put Social Security first.

TAKE OUR DAUGHTERS TO WORK DAY

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. MILLENDER-MCDONALD) is recognized for 5 minutes.

Ms. MILLENDER-MCDONALD. Mr. Speaker, I rise today to commemorate Take Our Daughters to Work Day. The Capitol Hill activities for Take Our Daughters to Work Day have been rescheduled for next Thursday because of the D.C. schools having academic testing today.

Today many fathers and mothers took their daughters to work. Take Our Daughters to Work Day was created in 1993 to help maintain that essential feeling of self-worth and enhance their understanding of what is possible and what they can accomplish if they put forth the effort.

This is an important day for the millions of girls who are provided with the rare and much-needed opportunity to meet successful professional women and envision the immense possibilities that stand before them.

Numerous studies have shown how many girls exhibit a strong and distinct sense of self-confidence until they reach the age of 11. Then there is a sudden drop in self-esteem, a lowered sense of self-worth, and intense feelings of insecurity about their own judgments and emotions. Take Our Daughters to Work Day is an effective way of maintaining their self-esteem.

Last year, 48.3 million adults said that their company and their spouse's company participated in this special day. In addition, three in ten adults said that they or their spouse personally participated by taking a girl to their workplace, which equals 15.4 million people.

Clearly, this is a day not only for this Nation's daughters but for parents, employers, and people who understand the value of investing in and training the younger generation to become better, stronger, and more effective members of the labor force in the years ahead.

As we approach the new millennium, Take Our Daughters to Work Day and similar activities which promote reaching out to young girls and women will become even more essential. By the turn of the century, 8 out of every 10 women between the ages of 25 and 54 will be on the job because they want and, in most cases, need to work. For the first time in history, most new jobs will require education or training beyond high school.

I hope that Members will participate in the Take Our Daughters to Work Day activities we have organized for our colleagues on Capitol Hill next week.

Our Nation's daughters need to know who they are and what they can be, which will exceed far beyond any societal limitations that were placed on their foremothers and to some degree continue to this day.

This knowledge and self-confidence help them develop more ambitious dreams, strive to take on more challenges, and become valuable leaders in America's future. We look forward to next week, Take Our Daughters to Work Day.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. ROHRABACHER) is recognized for 5 minutes.

(Mr. ROHRABACHER addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Iowa (Mr. LATHAM) is recognized for 5 minutes.

(Mr. LATHAM addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

NATIONAL CRIME VICTIMS RIGHTS WEEK

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. BRADY) is recognized for 5 minutes.

Mr. BRADY. Mr. Speaker, this week is a special time in our country. It is designated as National Crime Victims Rights Week. It is an opportunity to try to begin to balance the scales of justice that are weighted so heavily in favor of the accused and so lightly weighted in favor of the victims of violent crime.

I am proud to be an original cosponsor of a constitutional amendment proposed by the gentleman from Illinois (Mr. HYDE), Congressman and Chairman of the House Committee on the Judiciary, that attempts to restore and provide really for the first time in this country solid, irreversible rights for victims of violent crime.

What this constitutional amendment does is that it provides that victims have the right to be given notice, to know when there are public hearings related to the crime in which they have been victimized, to be heard if they are present, and if they are not, to submit a written statement at all public proceedings where a sentencing occurs or a plea bargain is agreed to or there is a prospect that the criminal will be released from custody.

It provides the right under this constitutional amendment to be notified if that convict is released or escapes from custody, and because justice needs to be sure and swift, to seek relief as victims from these unreasonable delays related to the crime; the right to have

restitution, because for many of victims of violent crime, especially if they lose a spouse or someone who is a source of income and revenue for their family, not only do they lose a loved one but they lose the financial support, the ability to send their children to college, the ability to spend time and have a house in which their children and those who survive the victim can live.

This constitutional amendment ensures that the victim's safety is always considered when a parole board or similar organization is looking at releasing a criminal in custody at whatever level. Finally, because rights mean nothing if we do not know of them, in this constitutional amendment we ensure that victims are notified of these rights early in the process.

As obvious as these rights are, the fact of the matter is, today in America very few enjoy them. With the exception of some enlightened States and some individual communities, for the most part the victims have no rights in these proceedings, are ignored in the process, are left behind, bewildered at a time in their life when they are stunned by what is occurring to them.

Our family has had some experience in this matter. When I was 12, my father was murdered in a South Dakota courtroom. While I was young at the time, and we do not remember everything as distinctly, I recall our family going through the trial, through the conviction, through the sentencing. And like a lot of families, we were before the parole board trying to keep dad's killer behind bars.

We have been through it. The fact of the matter is that no one ever expects it to happen to them. They are sure it only occurs in someone else's neighborhood, someone else's family, in someone else's community. But the fact of the matter is, in this America there are two classes of Americans: those who have been touched by violent crime and those who someday will be.

This constitutional amendment is designed to protect those who have not yet been victimized by a crime, to make sure that at a time in their life that they never thought that they would be involved in, when justice seems so distant and remote, that they get the one thing in life that they most need at that time, which is justice.

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Last year, I think in the year before, many of us watched the O.J. Simpson trial. We watched and read about the victims of the Oklahoma City bombing, and we had to pass a Federal law to ensure that the victims of Oklahoma City bombing could be present in the courtroom when that trial occurred. In most States all that a shrewd defense attorney has to do is identify the family or the victim's family as a possible witness in a courtroom case and excludes them, leaving the courtroom where the accused has a family behind them and full of supporters and where the victim is basically abandoned and empty. It is time that jurors see the victims of these crimes so that as they weigh the evidence, as they weigh the sentence, they understand that these are real people whose lives they affect.

I support this constitutional amendment and urge my colleagues to do so as well.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington (Mr. METCALF) is recognized for 5 minutes.

(Mr. METCALF addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

RANCHERS IN COLORADO KNOW HOW TO TAKE CARE OF THE LAND

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Colorado (Mr. MCINNIS) is recognized for 5 minutes.

Mr. MCINNIS. Mr. Speaker, I woke up this morning and, doing the usual morning, looked at the newspapers and read some of the comments about Earth Day yesterday, and I was surprised at some of the remarks that were made that seem to want to imply to the American people or convince the American people that the way to protect our environment is to have a larger and bigger government in Washington, D.C.; that the people in Washington, D.C., truly know better than those of you out there who own property, who have worked property, who work your land and live your land; that the people in Washington, D.C., really should be trusted with your water, they should be trusted with utilization of your land, they should be trusted with all of the decisions to be made about the environment.

So briefly tonight I wanted to talk to you about a few people that live on the land.

David and Sue Ann Smith, the Smith ranch located in Meeker, Colorado, that ranch is what they call a centennial ranch, which means one family has been on that ranch more than a hundred years. In the Smith case, it is one of the most beautifully managed ranches that I have been on, and I have spent a lot of time on it. It is a centennial family, they care about it, they make their living off that land.

Down in Carbondale, Colorado, former Congressman Mike Strang, Mike and Kit Strang have their ranch down there. It looks out over Mount Sopris. They take care of that land as if it were their own child.

You go back up to Glenwood Springs, Colorado, Al Strouband's. Al has a beautiful ranch up there, Storm King Ranch. He takes care of it. You should see what he does with the vegetation, you should see what he does with the utilization of the water, how he takes care of the game.

And not only does Al have a ranch in Colorado, he also has a farm in Virginia. Go down and see the farm and what he does with his farm, how well manicured it is, the animals that are taken care of, how he takes care of the environment, the soil, the water.

And you come back to Colorado. Go back up to Meeker again, go visit Bart and Mary Strang. They have been there a long time, these Strang families, long, long time. See how they take care of the land, see how protective they are of the environmental issues.

Go back up to Evergreen, Colorado, to Bill and Leslie Volbright. That is the utilization of conservation easements so that they can protect their land into the future.

Or if you want to, go back to Grand Junction, Colorado, Doug and Cathy King. I go up there every year to bugle elk. Some of the finest elk in the country are up in that area, beautiful aspen trees. You should go up there sometime in the fall, should go and ride in the pickup truck with Doug and see how much he cares about that land, how fragile they are with the land.

Go to Carbondale, Colorado to Tom and Ruth Perry's ranch; to their in-laws, Tom and Rossie Turnbull's. Look at what they do with their land and how protective they are.

You will find three things in common with all of these families. Obviously the first thing in common is they care about that land. They love that land. They know how important the land was for generations before them. They know how important that land is for generations ahead of them.

The second thing they all have in common is no one in Washington, D.C., no one in Washington, D.C., no Environmental Protection Agency, nobody from Earth First or the National Sierra Club had to march onto this property and tell these people how to care for that land. Nobody from Washington, D.C. or Earth First or these organizations had to tell them about the future generations. Nobody in Washington, D.C. or Earth First or any of those programs know anything about the past generations of this land.

The other thing that is in common, they are all Republicans.

Now when I read the papers this morning, the Democratic Party seems to think that through big government, through a larger EPA, through organizations like Earth First, that that is the way we ought to control and protect our environment. Well, I am telling you they have got it all wrong.

What they need to do is just take a few minutes, go talk to their local members, go talk to the local ranchers, go talk to the men and women that make their livings off farms and ranches. Take enough time to ride around on horseback or in a pickup or walk around, whatever you want to do. That land, see how they care for it, see how they talk about it, see how they cuddle it like it is a small child, see how they talk about future generations, and then reassess whether it is

necessary for Washington, D.C. to impose their excess regulations, to impose some of the utopian ideas and in many cases to drive these people off that land.

You know it is very easy in the East to tell them what to do in the West because there is not much government land in the East. In the West, my district for example, my district, geographically larger than the State of Florida, 20-some-million acres of Federal land. We know about that land. We do not need Washington, D.C. to tell us.

Sometime take a deep breath and go visit a ranch in Colorado.

AN AWESOME RESPONSIBILITY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Mississippi (Mr. TAYLOR) is recognized for 5 minutes.

Mr. TAYLOR of Mississippi. Mr. Speaker, let me first apologize to the wonderful people who work for this House. I am sorry we are keeping you late, I am sorry I am contributing to that.

As far as the American people, I want to apologize for the expense of this speech and the others. It costs about $8,000 an hour for special orders.

I tried when the Democrats were in the majority to do away with it, to have us use a room upstairs, let these good people, approximately 80 House employees, go home. There is no reason for these 80 people to be here, there is no reason for the clock to keep running. And I hope that some of my Republican friends who are equally cost-conscious would work with me on ending this practice.

Mr. Speaker, there is a room upstairs we can use. We do not have to keep 80 people around. My worries are not so great they need to be transcribed, and I can always ask that they be included in the RECORD if I think it is worthwhile.

I am sorry Mr. DELAY left. I do like Mr. DELAY. But I do feel like he said some things that need to be clarified, and I want the American people to know where I am coming from as I make these remarks.

I have been here almost nine years, and in those nine years have come to the conclusion that both the political parties have degraded themselves to the point where they are not much more than organizations that raise money and peddle influence. So I hope that no one will take this as a partisan speech, but merely somebody who cares about his country and wants to fix it.

I regret that Mr. DELAY would lead the public to believe that we have a balanced budget, because we do not, and I do consider our Nation's debt as the greatest threat to our Nation. I regret to tell the American people that we are now spending a billion dollars a day on interest on that debt and it is growing.

A couple yards away from me is a real neat human being by the name of DUNCAN HUNTER. He is the chairman of the Subcommittee on Military Procurement of the Committee on National Security. One of DUNCAN's great misfortunes is trying to replace an aging fleet for the Navy, replace aging airplanes for the Air Force, on a very, very small budget. And quite frankly, if we were not squandering a billion dollars a day on interest on the national debt, we could be buying a destroyer a day with enough change left over to buy about 20 Blackhawk helicopters.

That is why it is important that we balance our budget, that is why it is important we be honest with the American people. And it is not a Democrat or Republican issue because, doggone it, they are both guilty in creating the debt, and the only way we are going to get out of debt is working together.

I am sorry to say that the Cato Institute can back up everything that I have said. Actually, overall spending in the first three years that the Republicans have run Congress has increased at a greater rate than the last three years that the Democrats were in the Congress. They are both wrong. It is wrong for both of us.

But defense spending has either shrunk or been frozen under both, and that is equally wrong. There are kids today flying around in 30-year-old CH–46s, 30-year-old CH–47s. Almost a thousand UH–1 Hueys have been grounded because we finally came to the conclusion that it just was not fair, and above all it just was not safe to send those kids up. But people are still flying old F–14s, still flying old C–103s, and they are still going to sea in old ships.

That is why it is important that, number one, we face up to the reality that we are still not balancing the budget, that we are borrowing from the trust funds, and it does not get any easier to get out of that hole for a lot of reasons, but the biggest reason is as a Nation we are getting older. As a Nation we are getting fewer and fewer people who are taxpayers and more and more people who are receiving benefits.

My dad a couple of days ago turned 77 years old, and I will use his generation as an example. When my dad was a teenager in the 1930's, there were 19 working people for every retiree. One hundred years later, in the year 2030, it has been estimated that there will only be 1.2 working people for every retiree. If we do not pay our bills now, we will never pay our bills because the ratio of workers to retirees continues to decline. It gets only worse all the way out to at least halfway through the next century.

So what I am going to ask Mr. DELAY on one side, what I am going to ask my fellow Democrats on the other, let us not claim victory in the budget because we have not even started. We are $5.5 trillion in debt, and we do not need the Democrats over here or the demagogues over there misleading the public.

We have an awesome responsibility to defend this nation. We have an equally awesome responsibility to pay our bills. We have an equally awesome responsibility to be honest with the American people, make them aware of the problem and then, as their elected representatives, both Democrats and Republicans, let us solve them.

CAMPAIGN FINANCE REFORM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arkansas (Mr. HUTCHINSON) is recognized for 5 minutes.

Mr. HUTCHINSON. Mr. Speaker, I want to take this opportunity to address an important issue that really took a different spin this week. As we entered this week in legislative business, I did not expect campaign finance reform to be an issue that was going to be on the front lines of legislative business this week nor next week.

But it took a turn this week, and it goes to show the legislative process works, and I want to express my appreciation, I think the appreciation of the American public, that the leadership indicated their willingness to have a full and fair and open debate on campaign finance reform. The procedure that has been outlined could not be more fair and open than having a base bill that comes to the floor of the House, which is the bipartisan Campaign Integrity Act, the freshman bill that is a bipartisan bill that addresses campaign finance reform, and then it is subject to amendments. It is a full and free open debate that no one can quarrel about as to its fairness.

That is what the American people expect, and that is what they have received, and I think it is a tribute to the leadership for recognizing this, responding to it in a very fair fashion.

☐ 2015

Now, they have selected the freshman bill, it is called. It is really the result of a freshman task force, as the base bill that would come to the House on campaign reform. If you look at this bill, it is bipartisan in nature, but it is also bipartisan in process, and that is why it is so unique.

Let me talk just for a second about how that bill, I suspect, might have been chosen. If you go back to the beginning of this Congress, the two respective freshmen classes, the Democrats and the Republicans, said let's work together on an issue, and they choose finance campaign reform.

A task force of six Republicans and six Democrats met together over the course of 5 months, heard experts on constitutional law. We heard from the Democratic Party and heard from the Republican Party as to what they believed needed to be done.

We heard from the American people. We heard from academia. We heard from everyone imaginable; from the unions to the business side. And from those hearings we learned a lot, but we also came up with a proposal. We said we need to avoid the extremes. That is

what has killed this issue time and time again in Congress. Avoid the extremes.

Let us concentrate on what we can agree on, the consensus, the common ground. And that resulted in this bill that was produced by this task force, but now has over 70 cosponsors, both Republicans and Democrats, both Liberals and Conservatives. It crosses the political spectrum. Not only is it fair, but it is an improvement in our system.

Now, it is not just a freshman bill. We have representatives all across the spectrum, every class that has sponsored this, that has joined in support of this. We need more support for this bill as it moves to the floor.

What does the bill do? First of all, I think it is very important to say that this is not a Republican leadership bill; it is not a Democrat bill. It is a bipartisan bill in process, in form and result, and I hope that we can continue that process as we move through the House.

This bill, first of all, bans the corporate money from the multinational corporations that comes in huge sums to our national political parties. It bans the contributions in the same form from the labor unions that go to the national political parties. So it is balanced in banning soft money to the national parties.

The second thing it does, besides reducing the influence of special interests, it increases the role of individuals in our campaign process. It increases their contribution limits. It says they should have a greater role in it. It reduces special interests, increases the role of individuals, and then it increases the role of the American public by giving them more information, more information on who is affecting the campaigns, how much money is being spent, what groups are spending that money. And that is the information that they need to make the correct decisions on campaigns, and who are trying to influence them.

It is a basic bill that is good campaign reform, that is true reform, and I am delighted to have an opportunity for it to come to the floor, subject to amendment, as we debate this issue.

So I think that we have come a long way. I look forward to the next 3 or 4 weeks as we debate ideas and we have disagreements; both on the Republican and Democrat side. But what would be more fair to the American public than to debate ideas on the floor of this House and let the majority rule govern? I think that is what democracy is about. That is what this institution is about.

I addressed some eighth graders over the break at Alma High School. They asked me some questions. One was, why did you want to go to Congress? The answer was to reduce cynicism and distrust of our institutions of government.

What we can do by having this full and fair debate is to increase confidence, to increase respect by the American public, and we have done a great service. In addition, we have a good chance of passing meaningful reform, send it to the Senate, and let us see what they do.

PUTTING SECURITY BACK INTO SOCIAL SECURITY

The SPEAKER pro tempore (Mr. COOKSEY). Under a previous order of the House, the gentleman from South Carolina (Mr. SANFORD) is recognized for 5 minutes.

Mr. SANFORD. Mr. Speaker, I would like to follow up on what my colleague from Mississippi was talking about, and that is the surplus.

As we all may know, theologians have a thing, a word, a concept, if you will, called original sin, and the idea is from original sin all other sins flow. And when Washington these days begins talking about the idea of surplus, it seems to me that that is the original sin in Washington, because I just have real questions about the idea of us really running a surplus.

I have got a question from the standpoint of accounting. I mean, in the President's budget that was sent up to the Congress, it listed in it a $9.5 billion surplus, and yet the national debt would go up by $176 billion. That is the equivalent of saying I am going to pay off $95 on my credit card balance, but my credit card balance is going to go up by $1,700.

Mathematically that is impossible, with the exception of anyplace but Washington, D.C. Because in Washington, D.C., if you were to break out the budget, what you would see is $103.5 billion borrowed from Social Security, and as you add up the other trust fund borrowings, it comes to this $176 billion number.

That number actually may be a little less than that because the surplus is supposed to be greater, but the point is that is not the way you do accounting back home in South Carolina, or Nevada, or Illinois, or anywhere else. That is not conventional accounting.

Too, I think the surplus is somewhat fictitious simply from the standpoint of economy. The $225 billion that plugs the gap from where the Congress was and where the White House was built on the economy continuing to roll ahead, and I have serious reservations on it being able to continue to roll ahead.

The third way, I guess, I have questions on the sustainability of the surplus would be simply on the basis of what we send to Washington every year. We are at a post-World War II high in terms of the amount of money that people send in taxes to Washington, D.C.

This last year we hit 20.1 percent of GDP sent by hard-working Americans to Washington. Now, that was only met or exceeded basically at the height of World War II. In 1944, we hit 20.9 percent, and in 1945 we hit 20.4 percent of GDP. Other than that, it has been below 20 percent consistently, which means it only takes people modifying their behavior just a little in terms of a spouse working a little bit less or in terms of a worker spending a little bit more time with the family to all of a sudden have us drop below the 20 percent figure.

If we did, the surpluses would go out the window.

What this means to me as we begin to talk about the issue of Social Security is how do we have security with Social Security? Because what is interesting to me about the Social Security debate, is the President in this very Chamber said at the State of the Union that we ought to reserve every dollar of surplus for Social Security, and yet, given the way the trains have been running in this town recently, it seems to me if $50 or 60 billion comes to Washington, there is a good likelihood that that money will be spent. And if it is spent, it is not saved for Social Security.

So I think that one of the things we really ought to begin looking at is the idea of the gentleman from Ohio (Mr. KASICH) of Social Security Plus. Quite simply, that would be taking the surplus money, rebating it back to everybody that pays Social Security taxes, and then letting them put that money in their own Social Security Plus account.

The advantage for me of that idea is that by having it in your own account, and we are not talking about a lot of money, about $500, based on the size of the surplus in your account each year, and over the next 6 years, that would be $3,000. But by having that money in your account, Washington cannot reach in and borrow that money.

I think we really need to begin looking at that kind of security when we talk about the word ''Social Security'' if we are serious about, A, having every dollar of surplus go toward Social Security, and, B, on the whole concept of protecting Social Security.

STATE OF MILITARY PREPAREDNESS IN AMERICA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. HUNTER) is recognized for 5 minutes.

Mr. HUNTER. Mr. Speaker, we are getting closer and closer to the anniversary of the invasion of South Korea, and I reflected back the other day when I was at my aunt and uncle's house in Fort Worth, Texas, because on one of their dressers they have a photograph of a young marine; his name was Son Stilwell, a Marine Lieutenant killed in Korea, one of the 50,000-some casualties KIA that we suffered in that conflict.

I reflected on that this pending anniversary. We are on the eve of when I listened to our Secretary of Defense and President Clinton's defense leaders as they presented a declining defense budget to the U.S. Congress.

The situation, I think, is a lot like it was in those days in 1950 before that June invasion. To set the stage, Mr. Speaker, we have come down, we have slashed defense and cut down on our forces dramatically since Desert Storm. We have cut from 18 Army divisions that we had in 1991 to only 10 today. That is, incidentally and coincidentally, the same number of Army divisions we had when Korea was invaded.

We have gone from 24 to only 13 fighter air wings, so we have cut our air power almost in half under the Clinton Administration. And we have cut our naval vessels from 546 to 333, about a 40 percent cut in naval vessels.

Now, the theme in 1950 and the reason that so many defense leaders from then Lewis Johnson, then Secretary of Defense, right on down, the theme that they propounded as they presented this declining defense budget to the U.S. Congress, and said that it was adequate, was that somehow we were the dominating Nation of the world with respect to high-tech, and nobody would mess with us. Of course, we had at that time the nuclear weapon. Nobody else presumably had that until a few years later.

Yet we were shocked in June when the North Koreans invaded South Korea and almost pushed the South Korean forces and the Americans that tried to stem the tide into the sea. We tried to hold them up at the Osan Pass, the 25th Infantry Division that we flew in, MacArthur flew in from Japan, was cut to ribbons. The commander, General Dean was, in fact, captured by North Korean forces.

We held the Pusan Peninsula by our toenails and finally started to push it up to the northern part of the peninsula. Then, interestingly, the theme that the leaders had that nobody would mess with us because we had the high technology and the nuclear weapon was further devastated when the Communist Chinese invaded South Korea.

The point isn't that we are any dumber than we were in 1950 and/or maybe we were dumber than we are now, and maybe we have leaders today that know something those people didn't know. My point is that the events of the world are unpredictable and that we today are taking a high level of risk by dramatically cutting our defenses.

The American people need to know that. They need to know that the massive savings, so-called savings that President Clinton is showing the world proudly and showing the American people proudly, the millions of dollars that he has pulled out of programs, have primarily been pulled out of national security.

We have dramatically cut back our national security. And we do not know what this world is going to bring us. I am reminded of the fact that when we had our assembled intelligence apparatus and our intelligence leaders in front of us, and we asked them a few simple questions, such as which of you predicted the Falklands war, none of them could raise their hands. When we asked which of you predicted the downfall of the Soviet Union, that was in all the papers. None of them could raise their hands.

And when we asked them which of you predicted the invasion of Kuwait, one of them actually said before or after the armored columns started moving? We said, no; before the armored columns started moving. None of them had predicted the invasion of Kuwait. It is not that they are not smart, it is not that they don't have a lot of resources at their disposal. The facts are that unexpected things happen in this world.

We are still living in a very unstable world, and we have a declining military to face that unstable world with. One reason we were able to bring home to the American people so many of the soldiers and sailors and marines who went over to Desert Storm, and the reason we didn't have to fill up those 40,000 body bags we took with us in fighting the fourth largest army in the world, was because we were so strong we won the war decisively in a very short period of time with very limited American casualties.

Mr. Speaker, we are taking a big chance today, because under the Clinton Administration's leadership, we have cut our military almost in half. If the balloon goes up today, we cannot win a Desert Storm war as decisively as we did just a few years ago.

SECURITY POSTURE IN AMERICA THREATENED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. WELDON) is recognized for 5 minutes.

Mr. WELDON of Pennsylvania. Mr. Speaker, I rise as we complete legislative work this week, in anticipation of next week when we will begin the markup process for one of the largest bills we do each year, and that is the defense authorization bill. As my colleague just discussed, we are in a massive downsizing mode that I think is heading us right for a train wreck at the turn of the century in terms of our security posture.

You are going to be hearing significant amounts of comments and speeches and activities over the next four weeks as members of our committee, all 57 members, get involved in educating Members of this body, and the American people about where we are in terms of our state of readiness. I want to call attention to my colleagues two events that will take place next week.

First of all, Mr. Speaker, the largest loss of military life that we have had in this decade was back 7 years ago when 28 young Americans were killed by a scud missile, a low complexity scud missile shot from Iraq into a barracks in Saudi Arabia. That missile devastated the lives of 28 young Americans.

On Wednesday, all day in the Rayburn courtyard off of New Jersey Avenue, we will display a 40-foot-long scud missile, a missile that, in fact, was produced by the Iraqis with assistance from North Korea; that is the same missile that, in fact, killed American troops, the only major loss of life of our troops in this decade.

☐ 2030

That missile is now being sold around the world. Rogue nations are purchasing it. It is still a threat to this country that we cannot defend against.

Along with a display of that Scud missile, which will be available for inspection by our colleagues in the House and the other body and by the American public at that courtyard off of the Rayburn Building on New Jersey Avenue and C Street, will be a demonstration of one of our responses. The Army will, in fact, have a full, active deployment of a THAAD battery. THAAD is the Theater High Altitude Area Defense System that we are developing for our Army to deploy in theaters around the world to defeat missiles like the Iraqi Scud missile.

The THAAD battery will allow Members to see firsthand the success we have had to date in building what will become a very capable system. The unfortunate part of this is that it is going to take several years before this system will be available. But I want to encourage Members to walk over to the Rayburn courtyard and see for themselves how far we have come in terms of building a comprehensive system.

In fact, it has been this body, both Democrats and Republicans, over the past 3 years that have increased funding for these programs, at a time when the administration wanted to continually decimate and decrease funding for these very important programs.

The second event will occur the second day, on Thursday of next week, when 2,000 of America's finest American fire and domestic defenders, our emergency services personnel, will travel to Washington for our tenth annual dinner, where on Thursday night at the Washington Hilton we will pay tribute to these brave heroes.

These individuals will come from every State in the Union, they will represent every major community, large cities like New York, small towns across America, and they will come with one common purpose: that is, for us to be able to recognize their services.

But something different will happen that day, Mr. Speaker. On Thursday, at noon, there will be a massive rally and demonstration at this Capitol building, where the fire and EMS providers in every congressional district in this country will gather for a massive rally at noon, after having surrounded this Capitol building with fire and emergency services apparatus, to make a statement.

The statement is a simple one: As this Congress and this administration

has increased funding for response to terrorism acts, to the potential use of weapons of mass destruction, and for the disasters that would result from those, from increases in funding for the Defense budget, the Department of Justice budget, the Health and Human Services budget, the FEMA budget, and the Department of Energy budget, none of that money is in fact siphoning down to those people who are where the rubber meets the road, who are the Nation's first responders in each of these situations.

The demonstration on Thursday, that will be loud and vocal, to which I invite all of our colleagues from both parties, will focus on the fact that this Congress and the administration need to understand that in working to prepare this Nation to deal with disasters, especially those involving weapons of mass destruction, we need to provide the support to the 1.2 million men and women in the 32,000 departments, 85 percent of whom are volunteer, who protect this country every day.

I am also asking our colleagues, Mr. Speaker, to reach out and invite fire and EMS personnel from across the country, and especially in this region, to travel to Washington on Thursday to send a signal throughout this Capitol, with a massive rally at noon right outside the steps of this Chamber, that we will no longer tolerate the consideration of our fire and EMS personnel as second-class citizens, that they deserve the top priority in preparing this Nation to deal with disasters, both manmade and the potential use of terrorist devices.

THE INCREDIBLE THINGS HAPPENING IN THIS COMMUNITY

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, the gentleman from Wisconsin (Mr. NEUMANN) is recognized for 60 minutes as the designee of the Majority Leader.

Mr. NEUMANN. Mr. Speaker, I thought I would dedicate tonight's special order to the incredible things that are happening here in this community. I could not get on a plane home because we got out of session too late tonight, so I am kind of like putting myself back in Wisconsin and looking at Washington and just looking at how some of the most incredible things in the world are going on right out here in this city today.

I am going to start with one of the issues that was talked about today and actually we voted on today, and that is the IMF issue.

Out in Wisconsin, if you said IMF to the average person out there, I am not sure they would even know what IMF is or what it is for or any of the rest of that. Frankly, I came out of the private sector and had no political experience, so today I had an opportunity to sit in on an educational session on what the IMF is and how it actually goes about lending money and what it is all about.

At the end of the session, Jack Kemp was leading the session, but there were other experts there on the IMF, and at the end of the session I started asking questions that I think most people in Wisconsin, if they had sat in on this thing, would have logically started asking.

The first one I asked is, how much have we given the IMF already of the taxpayers' money? Thirty-six billion dollars, is the answer.

What do they want now? What are they asking for? They are asking for $18 billion more of the taxpayers' money.

The most incredible thing, and this is what this is dedicated to tonight, the incredible part of this is, as we heard on the floor during this debate, do not worry about it, the IMF does not cost any money. If the IMF does not cost any money and we do not have to raise any taxes to put this money over there, then why are we talking about $18 billion that we are somehow going to give them? Again, only in Washington could we have this kind of discussion.

But I did not stop there. I started asking some more Wisconsin commonsense kinds of questions. The next one I asked is, they had gone through this whole thing about how wherever the IMF was, America was viewed as an enemy, not as a friend. So I said, now, wait a second, if the IMF is not working today, why would we want to put more money into the system?

I asked another what I consider commonsense question: Does the IMF have enough money in the system today to keep going and doing what it is doing? And the amazing thing to me is they answered that question, yes, they do.

So I asked what I considered another commonsense question: How much money do they have? They have $40 billion of liquid assets today, $40 billion in the IMF of liquid assets today. But that is not the end. They have $35 billion in gold, beyond that. On top of that, they have borrowing power of $25 billion.

So this agency that is asking us to go to the American taxpayers and get the $18 billion that is not going to cost our government anything, even though we are going to put it in the IMF, the amazing thing is they already have all of this liquid cash on hand.

So I started asking what I thought was a logical question. I said, they have got $100 billion available already. What are they going to do with the $18 billion they are now asking us to collect from the American taxpayers that is not going to cost the government any money?

It turns out that this program, on which they spent 45 minutes describing why it was not working and what was wrong with it, the $18 billion is not to fund the program as it exists today, the $18 billion is to look at this program that they all say is not working and expand the program.

The $18 billion is not for the ag industry and the concerns that I hear from our ag folks, it is not to continue funding the programs to allow countries to buy grain and some of our agriculture products, the $18 billion is to expand this program that we heard from the leading experts is not working.

Mr. GUTKNECHT. Mr. Speaker, will the gentleman yield?

Mr. NEUMANN. I yield to the gentleman from Minnesota.

Mr. GUTKNECHT. Mr. Speaker, I thank the gentleman for yielding. I appreciate this special order tonight.

I was at that briefing, as well. I must tell the Members, it was eye-opening. When we look at what they are asking for, I was reminded that somebody once observed that the definition of insanity is doing more of what you have always done and expecting a different result.

If we look at what has happened in Asia, where they have gone in and forced some of the Asian economies to raise taxes, to devalue their currency, then they are surprised when, ultimately, that has a devastating impact on the economy, and it just seems to me this is wrongheadedness elevated to an absolute art form.

When we heard some of the examples today of what has happened in Asia and what happened in Indonesia, what has happened in other parts, what happened in Hungary, for example, and then they are coming in and saying, by the way, what we need is another $18 billion from the American taxpayers, and, incidentally, we want no debate on this, we want you to do this as part of a supplemental emergency bill so that there is no debate here in Congress, no debate here on the floor of the House, so people do not have any chance to ask some serious questions, it really illustrated what is wrong with things here in Washington.

We have a lot of things here in Washington that are wrong, a lot of things that need to be questioned, and this certainly is one of them. We have our friend here, the gentleman from Colorado, and I would like to hear from him as well.

Mr. MCINNIS. Mr. Speaker, will the gentleman yield?

Mr. NEUMANN. I yield to the gentleman from Colorado.

Mr. MCINNIS. Mr. Speaker, I appreciate my colleague yielding to me.

Mr. Speaker, we all grew up with the same thing, and my father and mother told me many times when I saw a great bargain, my father would always say, as yours did, just remember, nothing is free. Nothing is free. You always pay something.

But under this IMF request for $18 billion, Secretary Rubin and members of the administration say, it is not going to cost the taxpayer one dime. We heard it today. We have made a new discovery. The American people should be thrilled. They have discovered money that is free. Why send the IMF $18 billion, since it is free? We might as well send them several trillion dollars.

Of course, it is not free. Where it comes from are the hard-working people of all of our constituencies who have never even imagined $18 billion. And where is it going? One of the things that concerns me is that this country was based on the checks and balances of the private marketplace, of capitalism. When you mess up, you go broke. If you do not produce a product that should satisfy the consumer, people quit buying the product and you have to revise the product.

But do Members know what happens with this IMF money? They are going to take this $18 billion, let it follow money that they have already shipped over there; and, by the way, they will be back, especially if they think the $18 billion is easy money and free money out of the United States Congress.

Besides, they are insulated. The IMF has never talked, the executives of the IMF, in my opinion, have never once talked to a taxpayer in my district, never once gone to somebody pumping gas at the gas station, never once stopped by the ranch and talked to the ranch hand and said, hey, you are the guy paying me, let me tell you what this is doing.

Mr. GUTKNECHT. If the gentleman will continue to yield, Mr. Speaker, not only do they not talk to the taxpayers, the people in Colorado, the people in Wisconsin, the people in Minnesota, they will not talk to us. They will not tell us what exactly they intend to do. They will not tell us what their policies are.

Mr. MCINNIS. It is because it is free. They think they can just go to the Congress and the money is going to flow in. Of course, as I was saying, that money that goes over to these countries, what we are doing there, there are many private enterprises.

Now, in the past with the IMF, what they have done in the history of the IMF, they have bailed out governments of countries that got into trouble, where the entire government was on the verge of collapse. This time, it is different. This time, the IMF is going in to families, private families, who assume the risk, and they are going to bail these families out of a misjudgment. They took a risk.

What we are saying is that we are now making any kind of business ventures outside of the boundaries of our country risk-free. All you have to do is go out, throw out a few hundred million dollars, if you lose it, come to Washington, come to us, and get the money.

Mr. NEUMANN. The amazing thing to me is when you understand what the policy of the IMF is. They have gone into these countries. They have encouraged these countries to devalue their dollar.

Let us translate that so our folks understand exactly what that means, because it is incredible. It is absolutely incredible that the folks, my colleagues from the other side of the aisle, supported this effort today.

When the IMF goes in and devalues the currency in a foreign country, what that means is it makes their goods cheaper to ship to the United States and any American-made goods more expensive to ship to their country.

So how in the world did we have my colleagues on the other side of the aisle, supported en masse by the unions of this country, come out here and vote to not just keep the IMF where it is, because it already has the money to do the things it is doing now, but vote to expand the IMF that is going into these countries and encouraging this devaluation of their dollar system, so that their goods become cheaper to ship into our country and our American-made goods, produced by our American workers, with American jobs, become more expensive in their countries?

I started this thing kind of lighthearted tonight, because this city is so ridiculous, but when you get into these things, it is infuriating that we would take the taxpayers' money from our country, give it to an organization that is going to go to a foreign country, encourage that foreign country to devalue their dollar so they can ship their goods to America cheaper, and our American-made goods and our American jobs, those goods get more expensive.

It is just incredible the way things work in this city.

Mr. GUTKNECHT. Mr. Speaker, if the gentleman will continue to yield, it is even worse than that. They have gone to a lot of our farmers, and obviously we have lost market share in Asia. Whether you are shipping milk and cheese in Wisconsin, whether you are shipping pork and other commodities from Minnesota or whatever, beef and other products from Colorado, a lot of our farm groups have said, we have to do something to get these farm markets back. We certainly agree with that.

But if we take Indonesia, for example, and we take their currency, and we devalue it by 10 or 15 or 20 or 50 percent, 50 percent I think was the number in Indonesia, how much can they really buy from us? The fact of the matter is they cannot buy anything from us anymore, whether it is Spam, whether it is cheese, whether it is beef, or whether it is any other product from the United States. We are really hurting ourselves.

Mr. NEUMANN. And that is the thing that our agriculture industry needs to understand. If this organization goes in with this policy of devaluation and they devalue the dollar in Indonesia by 50 percent, that effectively makes our farm products that much more expensive to ship in Indonesia, and it effectively shuts the markets down.

Before I end this part of our conversation here this evening, though, I would like to come back to the gentleman from Minnesota and compliment him on bringing his Spam from his district to our meetings this morning. I would like to tell him that was excellent, and we certainly are appreciative of the products that are produced in our districts back home.

Mr. GUTKNECHT. I always try to bring it along to the meetings we have on Thursday mornings. It has become almost a tradition. People who have not enjoyed it recently, we do recommend that Spam. You just warm it up in the microwave or fry it, and it is a wonderful product.

More importantly, it is a wonderful product for export. This is a product that we can export anywhere in the world. Asia loves to buy more Spam. But when you devalue currencies, when you raise taxes, as the IMF is recommending to many of these economies, it really is the wrong prescription.

☐ 2045

It is a little like giving poison to someone who is already weakened. This is like the old remedies that they had during the Dark Ages where if a patient had a fever, they would do bloodletting. And that is exactly what the IMF has been doing to so many economies. It is the wrong remedy and wrong prescription.

And what is the answer that we are asked to deliver? More taxpayers' money to do exactly the wrong thing.

Mr. MCINNIS. Mr. Speaker, I would just like to say that the summary of what the IMF is asking us to do is to subsidize the IMF so they can turn around and subsidize mismanagement.

These economies, these large private families that took private risks now want the American taxpayer, who by far is the largest contributor to the IMF fund, they want the American taxpayer to subsidize overseas their mismanagement, their miscalculation and their risk. We do not even do it for a farmer in our district that does not get the prices he needs for his milk. We do not go in there and bail them out. We do not reward mismanagement. But we do with this.

I appreciate the opportunity to visit with both of my colleagues this evening and have a discussion about this, because this is an issue which, as the gentleman from Wisconsin (Mr. NEUMANN) said, it is an issue that is complicated. It is hard to understand what IMF stands for, but it is important for us.

I appreciate my colleagues including me in this conversation this evening to try to at least get the message out to our colleagues: Take a second look at this deal. Money is not free. Somebody is paying for it. And in these circumstances, all of our constituencies are paying for this $18 billion to be shipped, wired out of here and wired over to these mismanaged international economies.

Mr. GUTKNECHT. If the gentleman would yield, I think many of us in Congress would be willing to do something to try and strengthen the economies in Asia. I think historically the American

people have been more than generous with people around the world. We understand the importance of world trade. We want to strengthen those economies.

But before we give $18 billion to this fund, I think that we in Congress have a right to some serious discussion and, more importantly, some real answers to some of these questions about what is their policy. What exactly are they trying to impose upon these economies, and what in the end will it really mean in terms of world trade?

Will it mean stronger world trade? Stronger economies? Better markets for American-grown products and produced goods? Or will it in fact have the adverse consequences that we have seen in the past?

I would yield to my colleague from Colorado.

Mr. MCINNIS. And another thing we might ask is, when are they going to pay us back? I think that is a pretty logical question. Somebody borrows money from the bank, the bank says not only when are they going to pay it back, but how are they going to pay it back?

The other thing is that in an economy we have to let correction take place. There has to be that cycle of correction. And what we are doing is really we are doing an injustice to this country. We are avoiding the correction, the necessary correction by bailing it out. That correction will not take place and the next correction they get hit with is going to be much, much harder.

Again, we need to move on to some other subjects, but I do appreciate my colleagues and I appreciate the time that they have allowed me to join them this evening.

Mr. NEUMANN. Mr. Speaker, we appreciate the gentleman from Colorado being with us.

As we started tonight, we talked about the incredible things, and I think my colleagues would all like to be home in their home districts where it seems that common sense has a tendency to prevail more so than it does here. I would like to jump to another topic that I find absolutely incredible.

Over at the White House, the reason that there is a lot of people gone tonight is that they are having a party. They are celebrating the five-year reunion of the biggest tax increase in American history. Think about this. Out in Wisconsin we would celebrate tax cuts. We would celebrate lowering the tax burden on the American people. We would celebrate restoring Social Security and balancing the budget. But we most certainly would not be out there celebrating a tax increase on the American people.

It is just absolutely incredible to me that they would celebrate a tax increase. For anyone who has forgotten 1993, I think we ought to remember exactly what happened in 1993.

In 1993, these people looked at the fact that they had not been able to balance the budget here in Washington. They realized it was a serious problem facing America and they concluded the only thing they could possibly do is raise taxes on the American people and they did.

And I heard my colleague, the gentleman from Mississippi (Mr. TAYLOR) tonight, and so much of what he said I absolutely agreed with, but he said that spending was going up at slower rates before we got here and that is just plain not right.

During the first two years of Democrat control when they had a Democrat House, a Democrat Senate and a Democrat President, spending rose at 3.7 percent, almost twice the rate of Bush's last year. The reason they needed tax increases in 1993 was to fund an increased rate of spending. There are no ifs, ands or buts about this.

I brought a couple of charts with me tonight. Maybe we should go through a few more of the tax increases of 1993 before we bounce to them. If anyone thought they did not have their taxes increased in 1993, listening to the Washington rhetoric, I would understand that because they tried to play this off as a tax increase on the rich. When we start thinking about, who it is that they defined as rich, it becomes a fascinating discussion as well.

First, if someone was a senior citizen getting a Social Security check and they earned $32,000 a year or more, their Social Security tax rate went up. They started paying taxes on a whole bunch more Social Security. So the first group of people that this hit solidly was moderate, low-income senior citizens that earned $32,000 a year or more. They paid more taxes.

If anyone thinks they are not rich because they are not in that group, let me get to the next group. If Americans own an automobile and they fill their car up with gas, they are considered rich under this tax increase package of 1993. The gasoline taxes increased 4.3 cents a gallon in 1993. And as incredible as this seems, when they raised the Social Security taxes they did not put the money in Social Security. They spent it on other programs. When they raised the gasoline tax, they did not spend it building roads. They put the money into their social welfare spending programs.

Mr. Speaker, it is incredible. Small business owners, I used to be in the real estate business and the home building business. I would meet with clients sometimes and we would start at 8:00 in the morning and we would go right straight through to noon. Realtors understand that if they have been with their clients for four hours, they buy them lunch. That is part of business. At lunch the sale is discussed. When they buy the property, the realtor makes a commission and pays taxes on the commission. That is how this thing works. That lunch with those clients that the realtor has been with for four or five hours, that is part of their business expense.

What they did was dramatically reduce the ability of a business professional to write off that particular dinner or lunch with clients where they were selling as part of business, and in real estate that is how we did our business. It is just incredible to me that tonight the White House is celebrating these tax increases.

Mr. GUTKNECHT. Only in Washington, only in Washington dominated by the liberals would we have a birthday party, in effect, a anniversary party of the fifth anniversary of the largest tax increase in the history of the world. Only in Washington.

Mr. NEUMANN. Does the gentleman know what they are saying over there? They are saying that this tax increase somehow balanced the budget. I have brought a couple of notes with me.

Mr. GUTKNECHT. One of my favorite quotes is from John Adams, and John Adams had something to do with writing our Constitution. And John Adams often said, ''Facts are stubborn things.'' And you have some charts which help demonstrate the facts.

Mr. NEUMANN. The gentleman is absolutely right. Facts are stubborn things. Let us get some facts on the table to understand that that tax increase in 1993 was not the right answer to get to a balanced budget.

What I have is a chart and this top line shows where the deficit was going in 1995, two years after this tax increase, if we passed the President's budget. I do not know how I could make it clearer. This shows where the deficit was going after the tax increase if we passed the President's budget.

I mean, this is not like maybe this might have happened. Any person in America can pull this up on the Internet and find this budget and find it scored and they would find deficits in excess of $200 billion, even scored by the President's people. Scored by CBO it was up over $350 billion.

Mr. GUTKNECHT. Those are not our numbers. Those are from the nonpartisan Congressional Budget Office. That even after the enormous tax increases of 1993, had we passed the President's budget, the red line represents how much the deficit was going up over the next five years.

Mr. NEUMANN. The reason for that is very clear. The reason they raised taxes is so they could spend more money in Washington. Remember, this is a picture that starts in 1995, two years after the tax increase. The deficits were nowhere near under control.

When we were elected and came in here together in 1995, when we were elected to the House of Representatives we came with a different idea. We understood that reaching into the pockets of hard-working Americans and bringing more money to Washington was not the right answer. We understood that the way to get this done was by controlling wasteful Washington spending.

This yellow line on the chart shows where we were after 12 months of us

being in office. It is significantly better, but still not done.

The green line shows the plan that we had to reach a balanced budget. And I am happy to report the blue line shows what actually happened. And in fact for the last 12 months running, by Washington's definition, but for the last 12 months running the United States Government actually spent less money than they had in their checkbook.

Our colleague, the gentleman from Mississippi (Mr. TAYLOR), earlier this evening pointed out that that is not really a balanced budget. This is kind of a sad thing here. Washington defines a balanced budget is when the dollars in equals the dollars out. Part of those dollars in are the Social Security money. In the private sector where I come from, when I was running my company I had a pension plan for employees. The money had to be put into the pension fund.

The Social Security money should be put away. But what the gentleman from Mississippi misses in my opinion is that by controlling this growth of Washington spending we have, in fact, reached a balanced budget, even by Washington's definition, for the first time since 1969.

The definition that they have been using, even with all of that Social Security money in there, they have had not a single solitary 12-month period of time since 1969 where they did not spend more money than they had in their checkbook. So it is a monumental accomplishment. The gentleman's point that we still have a long ways to go is absolutely true.

So I want to start with this picture to make it very, very clear that raising taxes did not lead us to a balanced budget. Raising taxes, the President's proposal in 1995 has a huge deficit staring us in the face. It was only when we started controlling Washington spending that we actually started getting to a balanced budget.

Mr. GUTKNECHT. If the gentleman would yield, I think it really illustrates the difference between the two philosophies. One says, and the people who are celebrating down at the White House the largest tax increase in the history of the world, those people are saying the problem was that the American people were not paying enough taxes. What the American people believe, and we believe, is the problem was that there was too much Washington spending.

I think we have proven and we can demonstrate with some of your other charts that by eliminating 300 programs, by beginning to get control of those entitlements, including welfare, including Medicare spending, by doing that we have come closer now, in fact by the old Washington accounting standards, for the first time since Neil Armstrong walked on the face of the moon we will in fact have a balanced budget this year.

It seems to be an incredible coincidence that all of this has happened literally since the 1994 elections, because in 1994 the American people finally said enough is enough. This team has had their chance now for 30 years, they have controlled Washington, they have controlled Congress, they have run up deficits.

And I might just point out that one of the most scary statistics about our deficits and ultimately the debt, and we talk a lot about deficit and sometimes people get confused. There is a difference between the national debt and the deficit. Deficits are annual. But we have run up a debt of over $5.5 trillion on our kids and grandkids. That is a scary statistic. But what is scarier is how much we have to pay every year just to pay the interest on that national debt.

I tell people in my district, because Wisconsin and Minnesota are divided by the Mississippi River, but every single dollar of personal income taxes collected west of the Mississippi River now goes to pay the interest on the national debt. If that is not a scary statistic, I do not know what is.

The charts that we have there, and I want you to talk about it a bit, demonstrates how much we have actually slowed the rate of growth in spending here in Washington since we came and became part of that historic 104th Congress.

Mr. NEUMANN. That is what is so incredible about the party that they are holding in the White House tonight to celebrate the tax increase. For goodness sakes, if we look at what has happened, the red shows how fast spending was going up before we got here. The reason they raised taxes in 1993 was to pay for this spending increase.

This is how fast spending is going up now with the new Congress since 1995. Notice there is a 40 percent decrease in the growth of Washington spending. It is this difference between here and here that has gotten spending under control and gotten us to a point where we have actually spent less money in the last 12 months than in our checkbook.

Every time I say that I acknowledge the Social Security problem. It is the old Washington definition. I sincerely hope that our class is successful in moving this city forward to defining a balanced budget as something that we would accept in Wisconsin or Minnesota.

Mr. GUTKNECHT. We ought to use the same kind of accounting that every business uses and every family uses. Unfortunately, we are still stuck with the old accounting standards used by Washington since 1964.

□ 2100

I might mention a lot of people, a lot of Members who are watching this in their offices, and others, they really need to understand that in 1964 in many respects Washington changed the accounting standards. They went to what is called a unified budget, and many believe that the real reason that they did that is because they wanted to disguise the total of the Vietnamese war plus the total cost of the great society. And by taking all of that money from Social Security that was supposed to go into a trust fund and transferring that into the general fund, they made the deficit look much smaller. In the end, it is real money either way.

Mr. NEUMANN. I just want to bring up another point here because that party in the White House tonight celebrating these tax increases; the gasoline tax increase, the increase on seniors, increase on small business owners, it is so incredible that they would hold a party to celebrate this. I wanted to point out what happened after they raised taxes in 1993, and what this chart shows is exactly what happened to interest rates as soon as they raised those taxes.

You see on the far side of this chart is September of 1993; that is when they passed the tax increase. What you see, this climb right straight up, as soon as they raised taxes, interest rates started climbing. And they climbed right straight through until November of 1994, when we elected a Republican Congress. And why did it change in November of 1994? It changed because the people understood that we became committed to controlling Washington spending, and we were not going to go out and raise more taxes on the hard-working people of this country.

So what happened when we got here is they slowly, gradually started to understand that we were serious about getting Washington spending under control because here is what happened next. Those interest rates started tumbling. The reason they started tumbling is because when Washington spends less money, they borrow less money out of the private sector.

When there is less money coming out of the private sector to Washington, that, of course, means there is more money available in the private sector. With more money available in the private sector, and increased availability of money, it does not take Einstein to figure out, with more money available, the interest rates went down.

You can see they have been consistently below this point since we were here, some ups and downs as you go forward, but they have always stayed consistently below where they were at the peak after they raised taxes. That is why it is just incredible.

Are they celebrating over at the White House that the American people that wanted to buy a house or car got to pay more interest? What is it that they are celebrating over there? Are they celebrating they got to pay more taxes, or are they celebrating they got to pay more interest for their taxes and cars?

I keep coming back to, I guess I should have been on a plane back to Wisconsin tonight where we get back to some common sense out there. It is incredible in this city that they are holding a party to celebrate, for goodness sakes, to celebrate higher taxes and higher interest rates.

Mr. GUTKNECHT. I might just point out about that chart, it is no secret that interest rates peaked on election day of 1994. They trended down dramatically after the people on Wall Street, and more importantly the people on Main Street began to believe that the new Congress was serious about controlling spending. You see a couple of blips up there.

I think those correspond almost exactly with those periods when it looked as if we were going to lose that fight in terms of balancing the budget and paying down some of the debt in this country. And when the American economy, when Americans, as I say, from Wall Street to Main Street started to think that perhaps we were not going to succeed, we saw interest rates begin to trend upward.

But generally speaking, they know better sometimes than the pundits and the pollsters and whatever that it has been the Republican Congress since we came here in 1994 that has put a lid on Federal spending and said the problem is not that Americans do not pay enough taxes.

The problem is that Washington spends it so rapidly. If I could just close with this on this particular issue, there was a farmer in my district who said it so well and so simply, better than I can say it, and I quote him, and I am sorry, I do not have his name. But he once, I was out meeting with farmers one day and he said, talking about Federal spending and the deficit and the debt, he said the problem is not that we do not send enough money into Washington. He said the problem is that you guys spend it faster than we can send it in. And that, I think, is the best way to say it.

The problem was not that Americans were not paying enough taxes. They can celebrate down in the White House because I think it demonstrates to the American people more clearly than anything else that those folks believe that the problem has been that the American people were not paying enough in taxes. We believe that the American people were right in saying that the real problem was that Washington spent it too fast. We have slowed that spending rate dramatically. As a result, we have a balanced budget.

Mr. NEUMANN. I sincerely hope that the American people will pay attention to this particular situation and to the party that is going on over there at the White House tonight, and I really mean this sincerely. I think every American citizen who believes higher taxes is the right way to solve the economic problems facing our country, and there are some out there, they should all vote for the Democrat ticket in the fall of this year.

I think everybody who believes that we should control Washington spending, they should be voting for the Republican ticket; that believe that taxes are already too high, taxes should come down, we should get spending under control so we can restore Social Security, start paying down the Federal debt, that $5.5 trillion debt that our colleague from Mississippi so eloquently talked about before, the people that believe that controlling Washington spending is the right way to restore Social Security, pay down the debt and get the tax rate under control, those folks should be voting on the Republican ticket. The people that believe higher taxes is the right answer to do the same things, they ought to be voting Democrat.

Mr. GUTKNECHT. There really is a philosophical divide.

Mr. NEUMANN. Reclaiming for just a minute, I do want to point out, interest rates peaked out in November of 1994 when we were first elected. As Main Street America started to understand we were serious, they got all the way down here. It was almost a full year later, if you remember, a full year later we were in that government shutdown period.

This peak occurs shortly after we folded in the government shutdown because the American people thought we were going to go right back to the old spending ways. As they figured out that that was not true, you see the interest rates coming back down again. So the idea that we can control spending directly impacts these interest rates, and we should not just talk about this in terms of the numbers and these lines up here. Let me talk about this in a little different way.

If the interest rate falls by 2 points on a family that has bought a home for $100,000, that means that they keep in their house $2,000 extra money or roughly $160 a month that they get to decide how to spend for themselves. This is not even taxes we are talking about. This is simply because the interest rates are lower because Washington has got its spending under control.

If you take a family of five that went out and bought a three-bedroom, two-bathroom ranch in our neck of the woods, probably $110- $115,000 type home, they have got $100,000 mortgage on it. This means that in that family those parents get to decide what to do with an extra $150, $160 a month. Let me translate that even further.

If this family is looking at this $150 a month and they do not have to spend it on the interest, and they also look at the tax cuts that were passed because the spending is under control so they have this extra money in their house, these families may be able to make the decision to not take a second and third job. And when they do not take the second and third job that they would have otherwise had to take to pay the higher interest rates, to pay the higher taxes that they are over there celebrating about, if they would have had to take that second job, that means they cannot spend the time with their kids.

When they do not spend time with their kids, I have been talking about this 12,000-student survey done here recently, when parents do not spend time with kids, the single common factor in higher crime, more likeliness to have drug problems, teen pregnancy, teen smoking, the single uniting factor in those issues. It was parental time with the kids or parental connectedness. It is not just about charts and numbers; it is about the families out there in America that get to keep an extra $150 a month in their pocket because of the fact that the spending got under control and the rates came down.

Add that to the tax cut rate, and let us hope some of these families will not have to take a second and third job. Let us hope that some of our families will have more time to spend with their kids, and by parents spending more time with kids, education will get much better. We will see lower crime rates. We will see lower drug use, fewer teen pregnancies.

They looked at 12,000 students. This is a given fact. If parents spend more time with their kids, the probability that the kids are going to have drug problems, crime problems, teen pregnancy, smoking problems, the likeliness of the student or the young teenager being involved with these things decreases dramatically.

Mr. GUTKNECHT. Let us talk a little bit about what has happened in America over the last 30 years with the other team in control. I was fortunate; I was raised in the 1950's. So were you. You are a little bit younger than I am.

Mr. NEUMANN. Late 1950's, early 1960's.

Mr. GUTKNECHT. Nonetheless, let us talk about what it was like growing up in the 1950s. In the early 1950s, the average American family sent to Washington about 4 percent of their gross income. And I was really fortunate because my mom and dad could raise me and two brothers, three boys in our family on one paycheck.

Mom was always there when we came home from school, when we were doing things around the house, mom was there. Things have changed a lot in the last 30 years. Back then they paid 4 percent of their gross income to the Federal Government. Today, the average family sends 25 percent of their gross income to the Federal Government. What a difference that makes.

Today, the average family spends more on taxes than they do for food, clothing and shelter combined. And that is what is really driving a lot of the things you are talking about because we have changed the nature of the family. We have decided somehow in Washington that we could spend money smarter than the American family, that by creating more and more government programs that somehow we could improve the moral and the social fabric of this country. The facts just do not bear that out.

As a matter of fact, most Americans now believe that the fabric, the moral fabric of our country today is in worse shape than it was back in the 1950s. More government programs clearly are not the answer. Strengthening the cornerstone that makes our society work,

strengthening the American family really is the answer.

Mr. NEUMANN. I might add on the moral front, I think we need strong leadership in our Nation. I think the leadership of our Nation needs to set the example and needs to be an example that people both around the world as well as our own teenagers and our own kids can look to. I have one more chart that I would like to briefly talk about that just lends more to the incredibleness of that party that is going on over at the White House tonight celebrating tax increase.

This shows the level of the stock market. This is between here, and the far side of the chart is between the tax increase and when we were first elected to office. This becomes pretty significant, again not because the, not just the Dow Jones has soared as much as it has. It becomes significant because in our society today when I am at town hall meetings and I ask how many people own a stock or a bond or a mutual fund, I mean virtually every hand in the room goes up.

So we are now talking about not just numbers and the Dow Jones, we are talking about Main Street America, we are talking about families in Jaynesville and Beloit and Racine. We are talking about regular American families that own stocks and bonds. And what happens is since we were elected, we got spending under control, the interest rates came down; no big surprise. People started buying more houses and cars.

The economy got very strong because with low interests rates and available capital there is more jobs available and naturally we expect the economy to be strong. And that is exactly what is reflected in this chart as the Dow Jones rose dramatically since we were elected in 1994, late 1994. Again, I think what is important, here we are talking about the opportunity for people in our age group, people in their 50's and people in their 60's to retire and have a better life-style than what perhaps they would have otherwise had because they have got their money invested in these stocks and bonds and mutual funds so when they sell them off, of course, they are going to get to keep more money. Hopefully, that means a better life-style for them.

So this chart and this talk about budget numbers, that is all nice, but what is really important is that when somebody reaches age 65, if they put their money back in down here, the stock market is up here now, when they take those bonds and cash them and get the money, they can now live a better life-style, provide better health care for themselves and their family, provide a better life-style in general than they otherwise would have been able to do. It is not just numbers and charts and graphs, it is about a better life-style and the opportunity for a better life-style.

Mr. GUTKNECHT. Those numbers are a little small to read. What it really says is that under the old policies of the past with higher taxes and more spending, the market was growing at about 18 percent, had grown about 18 percent. Since the American people said enough is enough, and let us elect a whole new team to run things, and let us control spending instead of just raising taxes. In fact, let us control spending and allow families to keep more of what they earn and invest, the market has grown by 136 percent.

So they are celebrating the failed policies of 18 percent and we are talking about growth of 136 percent. And you are right, in the end it really is about quality of life and a lot more people can enjoy a higher quality of life when you have a stronger market, lower interest rates. You can have an economy that is growing at 3 and 4 percent, which we believe it should grow at, than you can with an economy that is only growing at 1.8 percent.

We have not even talked about the real impact in terms of welfare and what we have done for poor people and allowing people to get on the ladder and climb that ladder of success and go from poverty and get that job and begin to grow and invest and grow with this economy.

□ 2115

I think the most exciting thing that has happened since my colleague and I came to Washington is that we cut the welfare roles by 2.2 million American families. And a lot of people thought, when we were talking about reforming welfare, they said, this is an accounting exercise, and it is just about saving money. Well, welfare reform is not so much about saving money as it was about saving people. It was about saving families. It was about saving children. It was about saving those kids from one more generation of dependency and despair.

I think one of the greatest victories we have had since my colleague and I came to Congress is this victory over welfare. We have got a long ways to go, but enormous progress has been made.

Mr. NEUMANN. Reclaiming my time, I would like to point out one other thing that is very, very important when we look at this picture and rise in the stock market and we see the number of people that now own stocks and bonds and mutual funds in America, I think we should also talk about the fact that, because Washington is under control, as they make this additional profit, as they make more profit, of course, they pay more taxes and make the problem easier to solve, but now the tax is already at a lower rate because, last year, for the first time in 16 years, we actually lowered taxes.

What a direct contrast between what they are celebrating over there in the White House, the biggest tax increase in American history, and what has happened since then where we are now able to lower taxes while still achieving, albeit the Washington definition, the first significant step towards getting us to a real balanced budget. It is exciting to think about.

By the way, I hope people make profit. I sincerely hope that the people that have invested in this stock market make profit and make money. That is what investing is all about in America. It is not evil and rotten in America to make an investment and make a profit from it.

Now that tax rate on that profit, it used to be $28 out of every $100 we earned or made on our investment came to Washington. Now it is only $20 out of every $100. So it went down from 28 percent down to 20 earned.

I found we need to mention the other side of this. If they are earning less than $40,000 a year, it is amazing how many people are still in the stock market and bonds even in the low and moderate income brackets. If they are earning less than $40,000 a year, the capital gains tax rate dropped from 15 down to 10. So, again, it is not only this picture of the growing stock market, it is the impact on real lives of real people by reducing the tax rate.

The next topic that we talked about, if it is all right if we move on.

Mr. GUTKNECHT. I think we should. My colleague mentioned several times about the old accounting standards and how we use Social Security to make the deficit look smaller. I think we need to talk about it. Because the truth of the matter is, and I think the American people understand, we have made enormous progress, if we look at where we were just 4 years ago in terms of the deficit going up.

As a matter of fact, we need to be reminded that when the Congressional Budget Office scored the President's budget back in 1995, shortly after we came here, they said by the year 2002 we would be looking at deficits of $322 billion. And that is when we began to roll up our sleeves. We have eliminated 300 programs. We have dramatically changed the way the entitlements worked. We reformed welfare and Medicare and Medicaid. We made a lot of changes. And, as a result, we cut the rate of growth in Federal spending by about 40 percent. So where we were 4 years ago was headed towards disaster.

Where we are today is that the economy is stronger, the deficit under the old accounting standards is gone. And I think my colleague and I have been working on some of the numbers. My colleague does a better job, it seems to me, than almost anybody in Washington in terms of predicting where the economy is going and what it is going to mean to our budget.

My colleague is predicting, and frankly I agree, that we are going to see a surplus by the end of this fiscal year of somewhere in the area of $50 billion. That is good news. But what gets even better as we look forward, we are going to see surpluses perhaps if we continue to exercise the kind of fiscal discipline that we have for the last couple of years. If we continue that kind of discipline, we can actually see

surpluses in the area of $250 to $300 billion. And what a great debate to have.

And now we can start talking about how do we save Social Security? How do we make some of those changes permanent so we can begin to guarantee our kids a better standard of living and a better quality of life in the future?

I would be happy to yield back. Because I say, nobody in Congress has done a better job than my colleague has of creating a model and a computer model so that we really have a blueprint of where we can go in the future.

Mr. NEUMANN. I do think it is important. And when I listened to the gentleman from Mississippi (Mr. TAYLOR) earlier tonight, my colleague, who I have the greatest respect for, most everything he said, I really agree with except for the pessimistic side of it. We do not have to be pessimistic in America. We do not have to say our best days are behind us.

I will never forget at basketball games. I coach a lot. As a matter of fact, we just signed up for a couple more tournaments that my son and some of his friends in school will be playing in, one in Kenosha, one up in Omro, Wisconsin, and perhaps one in Oconomowoc. And we get into these basketball games and sometimes we are behind at halftime. And I like to compare this to what has happened in America over the last 20, 30, 40 years.

We are behind right now. But when we get into halftime and we are down by 12 points in a basketball game, I always tell our young players, in the first half of this game they beat us by 12 points. Now we got the second half. Let us go out and make sure we beat them by 13 points so we actually win the game.

We do not have to conclude because of the problems we have in America today that our best days are behind us. We can go out and play the second half of this game, the second half of our lives, if you like, and we can make sure that by 20 or 30 years down the road, a generation from now, we can make sure we have done the right things to restore this Nation. I do not think we have to be pessimistic about the future.

My colleague was talking about what is happening around us right now. We do not have to do anything different than the first 3 years we have been in office. We just have to hold the constraints on spending. If we hold the constraints on spending that we have had here, government spending is going up at roughly the rate of inflation. So let no one out there misconstrue this, that somehow it is being twisted or dramatically cut back somehow. It is not. Government spending is still going up at the rate of inflation, too fast in my opinion.

But for all the people around the country, it seems to be a rate they have learned to live with over the last 3 years. If we can keep government spending going up at the rate of inflation, because revenues go up because of both inflation and real growth in the economy, these large surpluses start to appear.

In all fairness, if I were the American people and I were listening to this concept that we might actually have these large surpluses, I would use the line ''show me the money'' to believe it. But I would point out, a year ago we were on this floor doing special orders, predicting surpluses in fiscal year 1998, and they were laughing at us.

We are now on the floor, and it is a given fact, that the United States Government will spend $50 billion less than it has in its checkbook this year. So what they were laughing at a year ago is reality today.

Mr. GUTKNECHT. If the gentleman would yield, I remember on the floor of this House, in fact, he came and we did some town hall meetings, one in Winona, Minnesota, and one in Mankato. And I think a lot of people thought we were crazy then when we said there was a very good chance that we would actually balance the budget this year. This was a year ago. And my colleague and I were a very small fraternity then who believed not so much that we believed at what was being done in Congress, I think the real thing was we believed in the American people.

The American people do not need a big incentive. They do not need large incentives to do what they have done throughout the generations. And literally since the pilgrims landed at Plymouth Rock, the history of this country has been that people would work, they would invest, they would save, they would produce and ultimately produce more wealth for more people.

The marvelous thing about this free enterprise system we have in the United States is that it has an enormous propensity to produce wealth not just for the wealthy but for all Americans.

John Kennedy reminded us back in the sixties that a rising tide lifts all boats, and that is what we are seeing in this economy. It is not perfect. There are still people being left behind. And we have to be aware of that and do what we can to pull our brothers along.

But the American people are doing what they have always done before, and that is they have been investing and saving and producing. They have been growing wealth and growing jobs and growing the economy. And, as a result, we have more revenue than anybody except perhaps my colleague would have predicted just a year ago.

Mr. NEUMANN. The good news is, if we get to a point where this does keep going, we keep spending under control and revenue just keeps growing like it has been for the last 3 or 4 or 5 years and it just keeps doing what it has been doing, these $250 billion surpluses are not far off. That means we can both put the money aside for Social Security and start paying down the Federal debt so our children might inherit a debt-free Nation and lower the tax burden on the American people. We can do all three of those things if we just manage to stay under control with spending in this city.

We talked about some incredible things here and we talked about how sometimes common sense in Washington and Wisconsin and Minnesota are very, very different. I would like to bring up one more topic, and then I would like to take the last few minutes to kind of close with a vision where we are going on the future.

The topic I would like to bring up is the needle exchange. This is perhaps as incredible as any discussion I have ever seen in this city. What they are proposing that we do, and as a matter of fact, the law was actually passed that this happened, is that the United States Government provide clean needles to drug users. Just think of it. We are not talking about legal medication here. We are talking about illegal drug users being able to turn in their dirty needles and get brand new ones.

What is really incredible about this is when they started to implement the program in various parts around the country, they traded in one dirty needle and got 39 new ones. Now, I do not know what my colleague thinks about this. But in my mind it does not take Einstein to figure out that if they turned in one dirty needle and got 39 new ones, the United States Government just became an agent in promoting the use of drugs in the United States of America; and that is pathetic.

I am happy to say that at least temporarily they have stopped this needle exchange program. But the law is still on the books, and that law needs to be changed. It is incredible that we would in this city decide that the right way to solve drug problems is to somehow trade dirty needles in for clean needles. It is just incredible that we would make that sort of decision.

Mr. GUTKNECHT. I do not think the people back in Wisconsin or Minnesota, at least the common-sense people sitting around the coffee shops and the feed mills, I mean they would say this is crazy, especially when we are supposedly having a war on drugs.

In fact, what makes it even more bizarre is we have some folks in Washington who want to have this war on tobacco. And, on the one hand, we are going to do everything we can, and I certainly support the notion of doing everything we can to try and keep kids from starting smoking, but, on the other hand, we have some of the most dangerous drugs which we know, for example, if they are a heroin addict ultimately it will kill them; and somehow we have this bizarre notion that we will make it safer by providing clean needles to heroin addicts.

This is sort of the tortured logic that has run this city for too long, and I think we have got to get back to some of those old-fashioned notions, things like personal responsibility and ultimately calling things the way they are

and saying we have got to do everything to keep people from using heroin rather than making it easier for them to use heroin with cleaner needles.

Mr. NEUMANN. We have spent an hour here tonight talking about some of the incredible things going on in this city from IMF funding to the strange way that we found support in this Congress for IMF funding today. We found that people that voted against it were people that we might have thought might vote for it, especially people that represent union districts supporting an agency that is encouraging devaluation of the dollar. Which means foreign goods come in cheaper and our American made goods cost more, which means we lose American jobs.

We talked about the party going on at the White House where they are celebrating tax increases, where what we ought to be doing is celebrating the tax cuts from last year. And we talked about the needle exchange.

I would like to kind of conclude this evening by not talking about something incredible, but rather talking about where we might go in the future with this great Nation that we live in; and I would like to kind of present a vision here for where we might go with America both from an economic front and from a social front. Let me start on the economic side because we have talked about it already a little bit tonight.

On the economic side, I think the first thing we need to do is make sure that Social Security is safe and secure for every senior citizen in the United States of America. I believe our seniors have the right to get up in the morning and not worry about whether their Social Security check is going to be there. So the first thing economically, let us make sure Social Security is safe for our senior citizens.

Second, we have got a $5½ trillion debt staring us in the face. Let us start making payments on that debt, much like we would pay off a home mortgage, and let us pay off the debt so our children can inherent a debt-free nation instead of having a legacy of a $5½ trillion debt.

The third thing, the tax rate is too high. The tax rate in America, if we look at State, local, Federal, property taxes, if we look at all taxes people pay, $37 out of every $100 they earn in America today goes to taxes of some form. So on this economic side, let us get a vision. Restore Social Security so our seniors are safe, pay off the debt so our children can inherent a debt-free nation, and let us get that tax burden down to not more than $25 out of every $100 the people earn, instead of the $37 that it currently is.

A lot of people would say that is pie-in-the-sky vision. I tell my colleagues, 3 years ago if we said we were going to balance the budget by 1998, they would say that was pie-in-the-sky. I believe in America and I believe what our people can do in this great country that we live in. It is possible to achieve these economic goals.

Let us go to the social side for just a minute. On the social side, I think education is the number-one problem facing the United States of America. Our kids have dropped to 21st in the world in education. I think the right answer to education is not Washington going out and spending more money on education. The right answer on education is empowering our parents to be actively involved in deciding where our kids go to school, what they are taught, and how they are taught it.

If we can just empower our parents to be actively involved in the kids' education, all kinds of things will change. It is the right way to bring education back up. More Washington control, more Washington dollars. Taking that responsibility away from the parents is the wrong answer. The right answer is parental involvement in the education system.

Now I am going to refer back to that study I talked about before of 12,000 teenagers. When parents are more actively involved in their kids' school, there is a side benefit. When parents are more actively involved in what their kids are learning, there is a side benefit. And the study of 12,000 teenagers pointed it out directly.

□ 2130

There is an immediate impact. The more parents that are involved with their kids, the less likely it is that the kids will be involved with crime, the less likely it is the kids will be involved with drugs, the less likely it is that the kids will have teen pregnancies, and the less likely it is the teens will be smoking.

So when we talk about those social problems facing America, the single most important thing that we can do is empower our parents to get more actively involved with our kids.

Both sides of this issue, both sides of this chart are intertwined in that, if we can reduce the tax burden from $37 out of every $100 the people earn down to $25 out of every $100 the people earn, we will be in a position where parents are no longer forced to take a second and a third job.

When they do not take the second and third job, they will have more time to spend with their kids. More time involved with their kids' education will automatically improve the education of their kids. And as they spend more time, the side benefits of less crime, less drugs, fewer teen pregnancies, and less teen smoking is an automatic outcome based on the survey that we just looked at. Again, the survey of 12,000 teenagers, the survey is accurate.

The last thing I would mention on the social side is something I did not really understand when I first came to Congress 4 years ago. I did not understand what a partial-birth abortion was. I am pro-life, so I understood the abortion issue reasonably well, but I did not understand partial birth.

When someone first explained to me that, in the third trimester of a pregnancy, in the seventh, eighth, or ninth month of a pregnancy that they would partially deliver a baby, and then with the baby going to live if they finish the delivery, at the last second, they would kill the baby in this abortion. A seventh, eighth or ninth month killing of a baby that would otherwise live is what a partial birth abortion is, and that is just plain wrong.

Wherever you are at on the abortion issue, I know from the State of Wisconsin, in the House of Representatives, the people that are pro-choice that are Democrats, the people that are pro-choice that are Republicans, the people that are pro-life Democrats and pro-life Republicans, all of them voted to end partial-birth abortions in America.

When I think about a social agenda, I do not believe that our free society now understanding what is happening in a partial-birth abortion can allow this to continue. It is one thing to not understand it; it is another thing to know about it and not do something about.

I would like to close tonight with a thought that I think about regularly. I think about this country and where we are at and where we have come over the last 40 years. I think about the problems in the White House and the message that that is sending to our kids, and I think about all of these social problems facing America and the education problems, and I think about the financial problems. These words just keep ringing in my ears. I keep hearing these words that, in order for evil to succeed, good people need only sit idly by and watch.

I wonder, when generations look back on our generation, and they ask what kind of people were these? Were these the people that sat quietly by, were these the good people that sat quietly by while evil succeeded during their generation?

Folks, we over the next 10, 15, 20 years, will we be the people that said enough is enough? We are not going to spend our children's money anymore. We are not going to take that money out of the Social Security Trust Fund. The taxes are too high, and we are going to get it down. We are going to pay off this debt so our kids get a debt-free nation.

We have had it with our kids being 21st in education in the world. They are going to be number one again. When they are number one with our parents more actively involved in their lives, the crime rate goes down, the drug use goes down, teen pregnancies are fewer, less teen smoking. We end partial-birth abortions.

Are we going to be the people that history looks back on and say that was the people in our society, that was the people in America that said enough is enough. The good people would no longer stand idly by and watch evil succeed. They are the people that stood up and took this country back and provided our children with a safe, secure moral future.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 3156

Mr. COOKSEY. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 3156.

The SPEAKER pro tempore (Mr. GUTKNECHT). Is there objection to the request of the gentleman from Louisiana?

There was no objection.

REPUBLIC OF TURKEY SEEKING U.S. APPROVAL

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, the gentleman from New Jersey (Mr. PALLONE) is recognized for 60 minutes as the designee of the minority leader.

Mr. PALLONE. Mr. Speaker, I do not plan to use very much of the hour this evening, probably about 15 or 20 minutes.

My topic relates to foreign affairs and U.S. relations with two countries that I feel very close to. One is Armenia. I happen to cochair the Armenia Caucus in the House of Representatives. And also India, another country where I cochair our Members' caucus that we have with approximately 100 Members, in the case of the India Caucus, and I think 65 or so in the Armenia Caucus.

I would like to turn first to the situation in Armenia. I should say really threats, if you will, to the Republic of Armenia, and also the Republic of Nagorno Karabagh that are coming, once again, from its neighbors.

I would like to specifically address a very troubling situation involving the possible transfer of sophisticated U.S. arms to Azerbaijan, an unstable and undemocratic regime. There have recently been press reports suggesting that the Republic of Turkey, another neighbor of Armenia, is seeking U.S. approval to sell F–16 fighter planes, assembled in Turkey, but based on a U.S. license, to the Republic of Azerbaijan.

According to the press reports, the idea of arms sale emerged during talks between government officials from the two countries regarding a Turkey-Azerbaijan defense agreement.

Mr. Speaker, for the transfer of the F–16's to take place, Turkey would have to seek permission from the United States and also of NATO. I have come to the House floor tonight to ask my colleagues to join me in urging our administration to reject any such proposal and discourage Turkey's growing role as an arms supplier to such volatile regions as the Transcaucasus and the Middle East.

In the next few days, I will be seeking signatures for letters to our President and other key national security officials in opposition to the Turkish sale of F–16's to Azerbaijan. Indeed, Mr. Speaker, it is inconceivable to me, and I think to most of the American people that our military, diplomatic, and intelligence agencies would even contemplate such a proposal.

While all the facts about the F–16 deal are still somewhat in dispute, these recent reports are the latest indication of a growing military and political alliance between Turkey and Azerbaijan, a very troubling development in terms of peace, stability, and democracy in this strategically important Caucasus region.

Both Turkey and Azerbaijan continue to maintain blockades of their neighbor, Armenia. These blockades, which are both illegal and immoral, have made it extremely difficult for much-needed emergency food, medicine, and energy supplies to reach the people in Armenia, including supplies sent by the American people.

In addition, Azerbaijan continues to refuse to compromise on negotiations to achieve a settlement over the Nagorno Karabagh conflict. Nagorno Karabagh is a region that has been primarily populated by Armenians for centuries, which has proclaimed its independence about 10 years ago, but which continues to be claimed by Azerbaijan. As a matter of fact, Azerbaijan also continues to maintain a blockade of Nagorno Karabagh, causing significant human hardship there as well.

Mr. Speaker, when I was in the region earlier this year in the Caucasus, in the frontline area of Karabagh, which was the target of constant sniper fire from Azerbaijani forces, I became aware of a very disturbing fact, which I would like to point out this evening.

The equipment that was being used by the Azerbaijani forces, from the weapons right down to the uniforms, were American and NATO supplies, provided to Turkey and then funneled to Azerbaijan.

Of course, Turkey, as we know, is a NATO ally, despite the fact that, unlike the other NATO countries of North America and Western Europe, Turkey is a country with numerous restrictions on democratic and civil liberties and a terrible human rights record.

But while Turkey is a NATO member, Azerbaijan is not, and it should not be receiving American military equipment, particularly not anything as sophisticated and dangerous as F–16 aircraft. Turkey should not be supplying such equipment to other nations.

Mr. Speaker, Azerbaijan is not exactly one of the democratic success stories of the former Soviet Union. In fact, the leader of Azerbaijan, Heydar Aliyev, is a former Communist Party boss who seized power in a coup and has led an authoritarian regime ever since. He has not permitted opposition political organizations or a free media.

More shocking, while oil wealth begins to pour into the Azeri capital of Baku, President Aliyev has done nothing to relieve the suffering of his own people in the countryside of Azerbaijan. Yet, it is precisely the huge oil wealth and Azeri territory in the Caspian Sea that has led Western Governments, including, I am sorry to say, our own government, to tolerate and promote this antidemocratic regime.

The combination of the oil resources in Azerbaijan and Turkey's position as a NATO member have led to excessive tolerance, in my opinion, on the part of our State Department for these two regimes and their growing military partnership.

I just hope, Mr. Speaker, and this is the last thing I would like to say tonight on this subject, is I just hope that the proposed Turkish-Azerbaijani F–16 sale will be where we finally draw the line in our support for this undemocratic regime and the dangerous situation that the F–16s might pose if this sale were ever allowed.

Now, Mr. Speaker, if I could, I would like to switch now and talk again briefly about the situation in India. I would like to make a very positive statement, if I could, about the recent visit to India by some of our U.S. officials representing the President. I speak today specifically about U.S. Ambassador to the United Nations, Mr. Bill Richardson, a former colleague of ours in the House of Representatives; Assistant Secretary of State for South Asia, Mr. Karl Inderfurth; and Director for South Asia in the National Security Council, Mr. Bruce Reidel, who recently made a very successful trip to India.

Indian and American officials associated with the trip have stated that the meetings were conducted with exceptional warmth, which can only indicate that U.S.-India relations have never been stronger.

I wanted to say, Mr. Speaker, that Ambassador Richardson and Secretary Inderfurth have traveled to South Asia in preparation for President Clinton's trip to the subcontinent, which was scheduled for this fall. As you know, President Clinton's trip to South Asia will be the first by an American President that has taken place in over 20 years.

These meetings were not intended to produce high-level agreements, but they gave senior administration officials the opportunity to meet with senior officials from the newly elected Indian government. The government in India changed hands. It was an election in March, and a new government took office in early April. Numerous issues were discussed with our U.S. officials and the new government, and I am pleased to see that the talks were very positive.

I wanted to talk about some of the issues that were discussed, because I think they are important. The U.S. delegation spent much of its time encouraging the reassumption of dialogue between India and Pakistan. This was something that the previous Prime Minister Gujral had encouraged quite a bit.

Talks between these South Asian neighbors had abruptly ended in September just prior to the new election cycle when both countries failed to resolve their differences over Kashmir. Fortunately, soon after Ambassador Richardson and Secretary Inderfurth

had left South Asia, reports indicated that talks between the two countries may resume after a summit meeting of the Indian and Pakistani Prime Ministers during the SAARC meeting in July. So we are very hopeful that we are going to see the reassumption of these talks, and I was very pleased to see that our representatives encouraged the reassumption of the dialogue between India and Pakistan.

Mr. Speaker, both the United States and India also, I would note, were very willing to discuss sensitive and controversial issues. For example, Ambassador Richardson stated that the United States will continue to work with the Indians in curbing the development of the nuclear weapons program, but that the nuclear issue would not dominate the dialogue between the two countries.

The U.S. Delegation informed Indian officials that the United States was pleased that the Indians had shown restraint after Pakistan had test-fired the Ghauri missile. I would like to inform Members of this body that the Defense Department is ready to consider sanctions against Pakistan following the firing of the missile.

A spokesman from the Pentagon recently stated, and I quote, that the United States has imposed sanctions against Pakistan in the past under the Missile Technology Control Regime. We are continuing to review the particular case and that review was in its advanced stages.

I would like the administration to look very closely at this issue. I am concerned that China or North Korea might have provided Pakistan with the technical information for the Ghauri missile. The continued illegal transfer of missile and nuclear technology may lead to further instability in South Asia. That is why I continue to oppose the administration's certification that will allow the United States to transfer nuclear technology to China.

Mr. Speaker, China is known to have transferred nuclear technology to Pakistan, so we should not be transferring any kind of technology to China that ultimately could be transferred to Pakistan.

I would also like to note that, on the heels of Ambassador Richardson and Secretary Inderfurth's trip, reports from India indicate that the United States and India are set to reinitiate civilian nuclear cooperation after 20 years. This partnership will focus on bilateral research projects and aimed at the improvement of the operational safety of India's nuclear power plants.

The first meeting between the two countries is scheduled to take place in the U.S. later this year. U.S. law will govern the exchange of civilian nuclear officials. The proposed safety cooperation between our countries would not involve the transfer of technology or controlled information or commodities from the U.S. to India. But increased dialogue on nuclear issues between our two countries can only lead to a safer and cleaner nuclear environment. So again, this is a very positive development.

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During the meetings that took place with Ambassador Richardson and Secretary Inderfurth the United States also acknowledged India's bid for permanent membership on the United Nations Security Council.

Now basically what the U.S. position is, and they basically stated it again at this meeting, is that the U.S. endorses Security Council reform and the U.S. supports the inclusion of Germany and Japan and one country each from Latin America, Asia and Africa. The United States, however, would allow the regions to determine who their representatives would be.

So United States is saying that there should be another Asian representative, but it does not necessarily have to be India.

I have to say, though, that in private discussions with administration officials there is no question in my mind that they support India's bid, and I hope that the United States public policy will ultimately be supportive of India being a permanent member of the Security Council.

There was also discussion between the U.S. and Indian officials during this recent trip on the need to fight terrorism. Ambassador Richardson had called on India's prime minister and home minister and had shared their concern over Pakistan-sponsored terrorism in Jammu and Kashmir and in other parts of India.

Obviously, again, the United States needs to do more to fight terrorism, to basically put pressure on Pakistan to not encourage and to harbor and train terrorists on its soil, and hopefully the comments that were made by Ambassador Richardson and Mr. Inderfurth will mean that the U.S. takes a more proactive view and tries to basically pressure, if you will, Pakistan into not encouraging terrorism in Kashmir and in other places in south Asia.

Both countries also discussed, very importantly I would say, the need to increase trade and investment. Finance Minister Sinha was just in the United States last week, this is the new finance minister in India, in the Indian government, and he assured U.S. business leaders that the new BJP government was not anti-foreign investment and that economic reforms would be accelerated with the new government. He recently stated that there was no doubt about the continuity of the reform process, and the finance minister said that the Indian government would seek foreign investment, particularly infrastructure like roads, railways, power, rural and high technology sectors, and he assured investors that the new government would continue the deregulation process to help build a strong private sector.

Now once again this is very important. One of the goals of our India Caucus is to promote more trade and investment by U.S. businesses in India. It is very important to see that the move towards a market economy, towards privatization, continues under the auspices of this new government.

There was a lot of attention paid during this recent trip to the so-called strategic dialogue that has been initiated by U.S. officials, and I would like to see the strategic dialogue extended into the defense area.

During the trip Defense Minister George Fernandez and the U.S. delegation agreed that more cooperation was needed in technology and military-to-military exchange, and I think that India, Mr. Speaker, can be a bulwark against the expansion of China's military in Asia. India should be more integrated in my opinion into the U.S. defense framework, and it should be able to buy military equipment and supplies from the United States on an equal basis with other allies. The strategic dialogue being fostered by the U.S. officials' recent trip I think will hopefully lead in this direction.

And finally, Mr. Speaker, my overall goals and the goals of the India Caucus include bringing India and the United States closer together, making India more of a foreign policy priority for the United States and, again, increasing U.S. trade with and investment in India. And I believe very strongly that this recent trip by U.S. officials to India has clearly helped to achieve these goals and is going a long ways towards improving our relationship on almost every level with India.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. MILLER of Florida (at the request of Mr. ARMEY) for today after 1:00 p.m. on account of attending his daughter's wedding.

Mrs. MEEK of Florida (at the request of Mr. GEPHARDT) for today after 2:00 p.m. on account of personal reasons.

Mr. YATES (at the request of Mr. GEPHARDT) for today after 6:00 p.m. on account of physical reasons.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. CAPPS) to revise and extend their remarks and include extraneous material:)

Ms. NORTON, for 5 minutes, today.

Ms. CARLSON, for 5 minutes, today.

Ms. MILLENDER-MCDONALD, for 5 minutes, today.

(The following Members (at the request of Mr. MCINNIS) to revise and extend their remarks and include extraneous material:)

Mr. LATHAM, for 5 minutes, today.

Mr. BRADY, for 5 minutes, today.

Mr. HUTCHINSON, for 5 minutes, today.

Mr. METCALF, for 5 minutes, today.
Mr. MCINNIS, for 5 minutes, today.
Mr. DELAY, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mrs. CAPPS) and to include extraneous matter:)

Mr. HILLIARD.
Mrs. KENNELLY of Connecticut.
Mr. HAMILTON.
Mr. LAMPSON.
Ms. DELAURO.
Ms. ESHOO.
Mrs. MEEK of Florida.
Mr. MENENDEZ.
Mr. NEAL.
Mr. TOWNS.
Mr. KENNEDY of Massachusetts.
Mr. KUCINICH.
Mr. KLECZKA.
Mr. BARCIA.
Ms. VELAZQUEZ.
Mr. SHERMAN.
Mr. SKELTON.
Mr. POSHARD.
Mr. KIND.

(The following Members (at the request of Mr. MCINNIS) and to include extraneous matter:)

Ms. ROS-LEHTINEN.
Mr. MCINTOSH.
Mr. WALSH.
Mr. GREENWOOD.
Mr. GALLEGLY.
Mr. SOLOMON.
Mr. GRAHAM.
Mr. RADANOVICH.
Mr. BUNNING in two instances.
Mr. SMITH of Michigan.
Mr. COLLINS.
Mr. DAVIS of Virginia.
Mr. COBLE.

ADJOURNMENT

Mr. PALLONE. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 9 o'clock and 50 minutes p.m.), under its previous order, the House adjourned until Monday, April 27, 1998, at 2 p.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

8593. A letter from the Deputy Chief, Programs and Legislation Division, Department of the Air Force, transmitting notification that the Commander of Hill Air Force Base (AFB), Utah, has conducted a cost comparison to reduce the cost of operating grounds maintenance, pursuant to 10 U.S.C. 2304 nt.; to the Committee on National Security.

8594. A letter from the Director, Office of Legislative Affairs, Federal Deposit Insurance Corporation, transmitting the Corporation's final rule—International Banking Regulations; Consolidation and Simplification (RIN: 3064–AC05) received April 14, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

8595. A letter from the General Counsel, Federal Emergency Management Agency, transmitting the Agency's final rule—Suspension of Community Eligibility [Docket No. FEMA–7684] received April 6, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

8596. A letter from the General Counsel, Federal Emergency Management Agency, transmitting the Agency's final rule—List of Communities Eligible for the Sale of Flood Insurance [Docket No. FEMA–7685] received April 6, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

8597. A letter from the General Counsel, Federal Emergency Management Agency, transmitting the Agency's final rule—Changes in Flood Elevation Determinations [44 CFR Part 65] received April 6, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

8598. A letter from the General Counsel, Federal Emergency Management Agency, transmitting the Agency's final rule—Changes in Flood Elevation Determinations [44 CFR Part 65] received April 6, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

8599. A letter from the General Counsel, Federal Emergency Management Agency, transmitting the Agency's final rule—Changes in Flood Elevation Determinations [Docket No. FEMA–7249] received April 6, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

8600. A letter from the General Counsel, Federal Emergency Management Agency, transmitting the Agency's final rule—Changes in Flood Elevation Determinations [Docket No. FEMA–7236] received April 6, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

8601. A letter from the General Counsel, Federal Emergency Management Agency, transmitting the Agency's final rule—Final Flood Elevation Determinations (44 CFR Part 67) received April 6, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

8602. A letter from the General Counsel, Federal Emergency Management Agency, transmitting the Agency's final rule—Final Flood Elevation Determinations (44 CFR Part 67) received April 6, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

8603. A letter from the General Counsel, Federal Emergency Management Agency, transmitting the Agency's final rule—Final Flood Elevation Determinations (44 CFR Part 67) received April 6, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

8604. A letter from the General Counsel, Federal Emergency Management Agency, transmitting the Agency's final rule—Changes in Flood Elevation Determinations (44 CFR Part 65) received April 6, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

8605. A letter from the Chairman, Federal Financial Institutions Examination Council, transmitting the Council's 1997 Annual Report to Congress, pursuant to 12 U.S.C. 3305; to the Committee on Banking and Financial Services.

8606. A letter from the Chairman, National Credit Union Administration, transmitting the 1997 Annual Report of the National Credit Union Administration, pursuant to 12 U.S.C. 1752a(d); to the Committee on Banking and Financial Services.

8607. A letter from the Administrator of National Banks, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, transmitting the Office's final rule—Expanded Examination Cycle for Certain Small Insured Institutions [Docket No. 98–03] (RIN: 1557–AB56) received April 1, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

8608. A letter from the Chairperson, National Council on Disability, transmitting the Council's Annual Report for Fiscal Year 1997, pursuant to 29 U.S.C. 781(a)(8); to the Committee on Education and the Workforce.

8609. A letter from the Acting Administrator for Health Resources and Services Administration, Department of Health and Human Services, transmitting the Department's final rule—Grants for the Construction of Teaching Facilities for Health Professions Personnel (RIN: 0906–AA39) received April 7, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

8610. A letter from the Deputy Director, OSG, Department of Health and Human Services, transmitting the Department's final rule—Medicare, Medicaid, and CLIA Programs; Clinical Laboratory Requirements-Extension of Certain Effective Dates for Clinical Laboratory Requirements Under CLIA [HSQ–237–FC] (RIN: 0938–AH84) received April 7, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

8611. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plans; State of Missouri [MO 046–1046; FRL–6001–2] received April 21, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

8612. A letter from the Secretary of Health and Human Services, transmitting a draft of proposed legislation to amend title XIX of the Social Security Act to clarify and revise requirements regarding penalties for certain taxes on and donations by health care providers; to the Committee on Commerce.

8613. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a report on the progress made toward opening the United States Embassy in Jerusalem, pursuant to Public Law 104–45, section 6 (109 Stat. 400); to the Committee on International Relations.

8614. A letter from the President, Inter-American Foundation, transmitting the Foundation's Fiscal Year 1997 Audited Financial Statements, pursuant to 22 U.S.C. 283j–1(c); to the Committee on Government Reform and Oversight.

8615. A letter from the Director, Administration and Management, Department of Defense, transmitting the Department's final rule—Defense Logistics Agency Privacy Program [Defense Logistics Agency Reg. 5400.21] received April 15, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

8616. A letter from the Assistant Attorney General for Administration, Department of Justice, transmitting the Department's final rule—Justice Acquisition Regulations [48 CFR Chapter 28] received April 7, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

8617. A letter from the Chairman, Nuclear Regulatory Commission, transmitting a report on the Commission's Fiscal Year 1997 Accountability Report, pursuant to 31 U.S.C. 3512(c)(3) Public Law 103–56; to the Committee on Government Reform and Oversight.

8618. A letter from the Attorney General, Department of Justice, transmitting a copy of the Annual Report of the Attorney General for Fiscal Year 1997, pursuant to 28 U.S.C. 522; to the Committee on the Judiciary.

8619. A letter from the President, The Foundation of the Federal Bar Association,

transmitting a copy of the Association's audit report for the fiscal year ending September 30, 1997, pursuant to 36 U.S.C. 1101(22) and 1103; to the Committee on the Judiciary.

8620. A letter from the Administrator, Federal Aviation Administration, transmitting the Pilot Minimum Flight Time Requirements Study, pursuant to 49 U.S.C. 44935 nt; to the Committee on Transportation and Infrastructure.

8621. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Dornier Model 328–100 Series Airplanes [Docket No. 97–NM–62–AD; Amendment 39–10434; AD 98–07–14] (RIN: 2120–AA64) received April 13, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8622. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Drawbridge Operation Regulations: Hutchinson River, NY [CGD01–97–125] (RIN: 2115–AE47) received April 13, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8623. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Drawbridge Operation Regulations: Richmond Creek, NY [CGD01–98–013] (RIN: 2115–AE47) received April 13, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8624. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Drawbridge Operation Regulations: North River, MA [CGD01–97–126] (RIN: 2115–AE47) received April 13, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8625. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Drawbridge Operation Regulations: Sheepscot River, ME [CGD01–97–128] (RIN: 2115–AE47) received April 13, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8626. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Drawbridge Operation Regulations: Presumpscot River, ME [CGD01–97–124] (RIN: 2115–AE47) received April 13, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8627. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Drawbridge Operation Regulations: Fore River, ME [CGD01–97–127] (RIN: 2115–AE47) received April 13, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8628. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; AERMACCI S.p.A. Models S.208 and S.208A Airplanes [Docket No. 97–CE–140–AD; Amendment 39–10453; AD 98–08–04] (RIN: 2120–AA64) received April 13, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8629. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; AERMACCI S.p.A. S.205 Series and Models S.208 and S.208A Airplanes [Docket No. 97–CE–144–AD; Amendment 39–10455; AD 98–08–06] (RIN: 2120–AA64) received April 13, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8630. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Pilatus Aircraft Ltd. Model PC–7 Airplanes [Docket No. 97–CE–149–AD; Amendment 39–10456; AD 98–08–07] (RIN: 2120–AA64) received April 13, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8631. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Stemme GmbH & Co. KG Models S10 and S10–V Sailplanes [Docket No. 97–CE–127–AD; Amendment 39–10452; AD 98–08–03] (RIN: 2120–AA64) received April 13, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8632. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Robinson Helicopter Company Model R44 Helicopters [Docket No. 98–SW–08–AD; Amendment 39–10461; AD 98–04–12] (RIN: 2120–AA64) received April 13, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8633. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Eurocopter France Model SA 330F, G, and J, and AS 332C, L, L1, and L2 Helicopters [Docket No. 97–SW–27–AD; Amendment 39–10462; AD 98–08–13] (RIN: 2120–AA64) received April 13, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8634. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Eurocopter France Model SA 365N, N1 and AS 365N2 Helicopters [Docket No. 97–SW–21–AD; Amendment 39–10463; AD 98–08–14] (RIN: 2120–AA64) received April 13, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8635. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Aerospatiale Model ATR42–500 Series Airplanes [Docket No. 98–NM–107–AD; Amendment 39–10457; AD98–08–08] (RIN: 2120–AA64) received April 13, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8636. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Fokker Model F28 Mark 0070 and Mark 0100 Series Airplanes [Docket No. 97–NM–249–AD; Amendment 39–10450; AD 98–08–01] (RIN: 2120–AA64) received April 13, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8637. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Establishment of Class D Airspace: Fayetteville (Springdale), AR [Airspace Docket No. 97–ASW–19] received April 13, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8638. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Pilatus Aircraft Ltd. Models PC–12 and PC–12/45 Airplanes [Docket No. 97–CE–119–AD; Amendment 39–10438; AD 98–07–18] (RIN: 2120–AA64) received April 13, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8639. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Boeing Model 767 Series Airplanes [Docket No. 98–NM–95–AD; Amendment 39–10448; AD 98–07–26] (RIN: 2120–AA64) received April 13, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8640. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Dornier Model 328–100 Series Airplanes [Docket No. 96–NM–119–AD; Amendment 39–10432; AD 98–07–12] (RIN: 2120–AA64) received April 13, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8641. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Schempp-Hirth K.G. Models Nimbus-2B, Mini-Nimbus B, Discus a, Discus b Sailplanes [Docket No. 96–CE–19–AD; Amendment 39–10439; AD 97–08–02 R1] (RIN: 2120–AA64) received April 13, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8642. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Airbus Model A300–600 Series Airplanes [Docket No. 95–NM–92–AD; Amendment 39–10451; AD 98–08–02] (RIN: 2120–AA64) received April 13, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8643. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Saab Model SAAB 340B Series Airplanes [Docket No. 98–NM–49–AD; Amendment 39–10449] (RIN: 2120–AA64) received April 13, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8644. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Establishment of Class E Airspace; Cooperstown, ND Correction [Airspace Docket No. 97–AGL–50] received April 13, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8645. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Amendment of Class E Airspace; New Bern, NC [Airspace Docket No. 97–ASO–26] received April 13, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8646. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Special Use Airspace [Docket No. 29179; Amendment No. 73–8] received April 13, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8647. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Revocation of Class E Airspace; Spofford, TX [Airspace Docket No. 98–ASW–21] received April 13, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8648. A letter from the Acting Assistant Secretary for Employment and Training, Department of Labor, transmitting the Department's final rule—Unemployment Insurance Program Letter [No. 18–98] received April 8, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

8649. A letter from the Acting Assistant Secretary for Employment and Training, Department of Labor, transmitting the Department's final rule—Indian and Native American Welfare-To-Work Grants Program (RIN: 1205–AB16) received April 1, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

8650. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Determination of

Issue Price in the Case of Certain Debt Instruments Issued for Property [Rev. Rul. 98–23] received April 21, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

8651. A letter from the Assistant Secretary for Import Administration, International Trade Administration, transmitting the Administration's final rule—Antidumping Duties; Countervailing Duties [Docket No. 950306068–6361–04] (RIN: 0625–AA45) received April 7, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

8652. A letter from the Administrator, National Aeronautics and Space Administration, transmitting the Administration's final rule—Duty-Free Entry of Space Articles (RIN: 2700–AC12) received April 1, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

8653. A letter from the President, U.S. Institute of Peace, transmitting the Institute's Fiscal Year 1997 Audit Report, pursuant to 22 U.S.C. 4607(h); jointly to the Committees on Education and the Workforce and International Relations.

8654. A letter from the Deputy Director, OSG, Department of Health and Human Services, transmitting the Department's final rule—Medicare Program; Medicare Appeals of Individual Claims [BPD–453–FC] (RIN: 0938–AG18) received April 7, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); jointly to the Committees on Commerce and Ways and Means.

8655. A letter from the Executive Director, District of Columbia Financial Responsibility and Management Assistance Authority, transmitting a report entitled ''The Opening of District of Columbia Public Schools for the 1998–1999 Academic Year,'' pursuant to Public Law 105–100, section 143; jointly to the Committees on Government Reform and Oversight and Appropriations.

8656. A letter from the Acting Director of Communications and Legislative Affairs, Equal Employment Opportunity Commission, transmitting the Commission's Annual Report for Fiscal Year 1995, pursuant to 42 U.S.C. 2000e–4(e); jointly to the Committees on the Judiciary and Education and the Workforce.

8657. A letter from the Secretary of Transportation, transmitting a draft of proposed legislation to authorize activities under the Federal Railroad safety laws for fiscal years 1999 through 2002, and for other purposes; jointly to the Committees on Transportation and Infrastructure and the Judiciary.

8658. A letter from the Deputy Director, OSG, Department of Health and Human Services, transmitting the Department's final rule—Medicare and Medicaid Programs; New Payment Methodology for Routine Extended Care Services Provided in a Swing-Bed Hospital [BPD–805–F] (RIN: 0938–AG68) received April 7, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); jointly to the Committees on Ways and Means and Commerce.

8659. A letter from the Office of Inspector General, Department of Health and Human Services, transmitting the Department's final rule—Medicare and State Health Care Programs: Fraud and Abuse; Issuance of Advisory Opinions by the OIG (RIN: 0991–AA85) received March 26, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); jointly to the Committees on Ways and Means and Commerce.

8660. A letter from the Regulations Officer, Department of Health and Human Services, transmitting the Department's final rule—Health Care Programs: Fraud and Abuse; Revised PRO Sanctions for Failing To Meet Statutory Obligations (RIN: 0991–AA86) received March 26, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); jointly to the Committees on Ways and Means and Commerce.

8661. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—National Emission Standards for Hazardous Air Pollutants for Source Category: Pulp and Paper Production; Effluent Limitations Guidelines, Pretreatment Standards, and New Source Performance Standards: Pulp, Paper, and Paperboard Category (RIN: 2040–AB97) received April 14, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); jointly to the Committees on the Joint Committee on Printing and Commerce.

8662. A letter from the Secretary of the Treasury, Securities and Exchange Commission, and Board of Governors of the Federal Reserve System, transmitting Secretary of the Treasury, the Securities and Exchange Commission, and the Board of Governors of the Federal Reserve System: Joint Study of Regulatory System for Government Securities, pursuant to 15 U.S.C. 78o–5 nt.; jointly to the Committees on Commerce, Ways and Means, and Banking and Financial Services.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. ARCHER: Committee on Ways and Means. H.R. 3546. A bill to provide for a national dialogue on Social Security and to establish the bipartisan panel to design long-range Social Security reform: with an amendment (Rept. 105–493). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of Rule X and clause 4 of Rule XXII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. MCINNIS:

H.R. 3715. A bill to authorize the Secretary of the Interior to convey the facilities of the Pine River Project, to allow jurisdictional transfer of lands between the Department of Agriculture, Forest Service, and the Department of the Interior, Bureau of Reclamation, and the Bureau of Indian Affairs, and for other purposes; to the Committee on Resources.

By Mrs. LOWEY (for herself and Mrs. MORELLA):

H.R. 3716. A bill to amend the Public Health Service Act to extend the program of research on breast cancer; to the Committee on Commerce.

By Mr. SOLOMON (for himself, Mr. WICKER, Mr. HASTERT, Mr. BARR of Georgia, and Mr. DELAY):

H.R. 3717. A bill to prohibit the expenditure of Federal funds for the distribution of needles or syringes for the hypodermic injection of illegal drugs; to the Committee on Commerce.

By Mr. DELAY:

H.R. 3718. A bill to limit the jurisdiction of the Federal courts with respect to prison release orders; to the Committee on the Judiciary.

By Mr. BARTLETT of Maryland:

H.R. 3719. A bill to authorize the construction of a monument to honor those who have served the Nation's civil defense and emergency management programs; to the Committee on Resources.

By Mr. DELAY (for himself, Mr. KING of New York, Mr. SOLOMON, Mr. LIVINGSTON, Mr. ARCHER, Mr. STUMP, Mr. DOOLITTLE, Mr. CUNNINGHAM, Mr. ROHRABACHER, Mr. PAUL, Mr. HERGER, Mr. CANADY of Florida, and Mr. HILLEARY):

H.R. 3720. A bill to repeal the Bilingual Education Act and for certain other purposes; to the Committee on Education and the Workforce.

By Mr. BASS:

H.R. 3721. A bill to amend the Federal Election Campaign Act of 1971 to reform the financing of campaigns for election for Federal office, and for other purposes; to the Committee on House Oversight, and in addition to the Committees on the Judiciary, and Government Reform and Oversight, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. CHRISTENSEN (for himself, Mr. BARTLETT of Maryland, Mr. BEREUTER, Mr. BURR of North Carolina, Mrs. CUBIN, Mr. DOOLITTLE, Ms. DUNN of Washington, Mrs. EMERSON, Mr. ENSIGN, Mr. GANSKE, Mr. HOEKSTRA, Mr. ISTOOK, Mr. MANZULLO, Mrs. MYRICK, Ms. PRYCE of Ohio, Mr. RAMSTAD, Mr. SESSIONS, Mr. SENSENBRENNER, Mr. SHADEGG, Mr. SISISKY, Mr. TALENT, Mr. THOMAS, Mr. TRAFICANT, and Mr. WOLF):

H.R. 3722. A bill to amend the Internal Revenue Code of 1986 to clarify the standards used for determining whether individuals are not employees; to the Committee on Ways and Means.

By Mr. COBLE:

H.R. 3723. A bill to authorize funds for the payment of salaries and expenses of the Patent and Trademark Office, and for other purposes; to the Committee on the Judiciary.

By Mr. CUMMINGS (for himself, Ms. KILPATRICK, Ms. DELAURO, Ms. PELOSI, Mr. PALLONE, Mr. MEEHAN, Mr. FROST, Mr. HOYER, Mr. COYNE, Ms. BROWN of Florida, Mr. JACKSON, Mr. SCOTT, Mr. OLVER, Mr. LEWIS of Georgia, Mr. NADLER, Mr. HILLIARD, Ms. SLAUGHTER, Mr. LANTOS, Mr. KENNEDY of Massachusetts, Mr. RUSH, Mr. FRANK of Massachusetts, Mrs. MALONEY of New York, Mr. STARK, Mr. MOAKLEY, Ms. LOFGREN, Mr. OWENS, Mr. KUCINICH, Mr. BORSKI, Mr. GONZALEZ, Mr. BARRETT of Wisconsin, Mr. THOMPSON, Mr. MEEKS of New York, Mr. BONIOR, Mr. CLAY, Mr. DAVIS of Illinois, and Mr. PAYNE):

H.R. 3724. A bill to provide for the continuation of the demonstration program, known as the Healthy Start Initiative, that is carried out by the Secretary of Health and Human Services as a program of grants to reduce the rate of infant mortality; to the Committee on Commerce.

By Mr. GREENWOOD:

H.R. 3725. A bill to make the Occupational Safety and Health Act of 1970 applicable to the United States Postal Service in the same manner as any other employer; to the Committee on Education and the Workforce, and in addition to the Committee on Government Reform and Oversight, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. GUTIERREZ:

H.R. 3726. A bill to amend the Electronic Fund Transfer Act to require additional disclosures relating to exchange rates in transfers involving international transactions; to the Committee on Banking and Financial Services.

By Mr. LAZIO of New York (for himself, Mr. QUINN, Mr. HORN, and Mr. BOEHLERT):

H.R. 3727. A bill to provide loan forgiveness for individuals who earn a degree in early

childhood education, and enter and remain employed in the early child care profession, to provide loan cancellation for certain child care providers, and for other purposes; to the Committee on Education and the Workforce.

By Mr. OBEY:

H.R. 3728. A bill to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act and other laws to return primary responsibility for disaster relief to the States, to establish a private corporation to insure States against risks and costs of disasters otherwise borne by the States, and to provide for reimbursable Federal assistance to States for activities in response to disasters, and for other purposes; to the Committee on Transportation and Infrastructure, and in addition to the Committees on Agriculture, Small Business, and Banking and Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. PRYCE of Ohio:

H.R. 3729. A bill to ensure that prisoners are not permitted unsupervised access to any interactive computer service; to the Committee on the Judiciary.

By Mr. SHAW (for himself and Mr. JEFFERSON):

H.R. 3730. A bill to amend the Internal Revenue Code of 1986 to provide for the elimination of certain foreign base company shipping income from foreign base company income; to the Committee on Ways and Means.

By Mr. SKEEN (for himself, Mr. REDMOND, Mr. SENSENBRENNER, and Mr. PICKERING):

H.R. 3731. A bill to designate the auditorium located within the Sandia Technology Transfer Center in Albuquerque, New Mexico, as the ''Steve Schiff Auditorium''; to the Committee on National Security.

By Mr. TIAHRT:

H.R. 3732. A bill to amend title II of the Social Security Act to waive the waiting period otherwise required for disability beneficiaries in the case of individuals suffering from terminal illnesses with not more than six months to live, and to amend titles II and XVI of such Act to provide for appropriate treatment of prisoners; to the Committee on Ways and Means.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

282. The SPEAKER presented a memorial of the Legislature of the State of Colorado, relative to House Joint Resolution 98–1013 memorializing the relocation of the exchange and commissary at Fitzsimons Army Garrison to new facilities to be constructed at Buckley Air National Guard Base; to the Committee on National Security.

283. Also, a memorial of the Legislature of the State of Kansas, relative to House Concurrent Resolution No. 5035 memorializing the Congress not to take action to mandate competition in retail sales of electricity and to leave that responsibility to the individual states; to the Committee on Commerce.

284. Also, a memorial of the House of Representatives of the State of Pennsylvania, relative to House Resolution 294 memorializing the Congress of the United States and the Federal Communications Commission to all state regulatory agencies the flexibility they need to conserve available telephone numbers and so extend the useful lives of existing area codes; to the Committee on Commerce.

285. Also, a memorial of the Legislature of the Commonwealth of Pennsylvania, relative to House Resolution 388 memorializing Congress to authorize a ten-year extension of the Delaware and Lehigh Navigation Canal National Heritage Corridor Act and to authorize continued Federal support for corridor projects; to the Committee on Resources.

286. Also, a memorial of the Senate of the State of Kansas, relative to Senate Resolution No. 1835 memorializing the United States Congress to enact legislation on taxation of electronic commerce that will treat in-state and out-of-state retailers in an equitable fashion and help preserve the integrity of the tax systems of state and local governments; to the Committee on the Judiciary.

287. Also, a memorial of the House of Representatives of the State of Pennsylvania, relative to House Resolution 296 memorializing the Congress of the United States to enact legislation directing the Environmental Protection Agency to return no less than 80% of all fines and penalties collected from any municipality, its authorities or agencies to same for the rehabilitation of the existing facilities to required environmental standards; to the Committee on Transportation and Infrastructure.

288. Also, a memorial of the Senate of the State of Tennessee, relative to Senate Resolution No. 106 memorializing the United States Congress to maintain the incentive grant approach to accomplishing the shared public safety objectives and to refrain from imposing federal mandates to accomplish such objectives; to the Committee on Transportation and Infrastructure.

289. Also, a memorial of the Legislature of the State of Idaho, relative to Senate Joint Memorial No. 106 memorializing the U.S. Army Corps of Engineers and the Bonneville Power Administration to reassess the most recent program recommendations and retain a policy of spreading the risks to assure perpetuation of the salmon fish run in the Salmon and Columbia river systems; jointly to the Committees on Transportation and Infrastructure and Resources.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 59: Mr. GOODLING.
H.R. 66: Mrs. KELLY.
H.R. 68: Ms. HOOLEY of Oregon.
H.R. 218: Mr. HALL of Ohio and Ms. DUNN of Washington.
H.R. 225: Mr. FOLEY.
H.R. 322: Mr. BOEHLERT.
H.R. 530: Mr. NEUMANN, Mr. ROYCE, Mr. SALMON, and Mr. GOODLATTE.
H.R. 619: Mr. HASTERT, Mr. TRAFICANT, and Mr. LAMPSON.
H.R. 716: Mr. MCCRERY.
H.R. 738: Mr. SMITH of Texas.
H.R. 814: Mr. BARRETT of Wisconsin.
H.R. 815: Mr. TRAFICANT and Mr. MEEKS of New York.
H.R. 860: Ms. EDDIE BERNICE JOHNSON of Texas and Ms. STABENOW.
H.R. 864: Ms. HOOLEY of Oregon, Mr. BORSKI, Mr. SISISKY, Mr. SCOTT, and Mr. KLECZKA.
H.R. 965: Ms. PRYCE of Ohio and Mr. RIGGS.
H.R. 979: Mr. SCHUMER, Mr. SESSIONS, Mr. GIBBONS, and Mr. STUPAK.
H.R. 991: Mr. TOWNS.
H.R. 1023: Mr. KLINK.
H.R. 1126: Mr. TURNER and Mr. POMBO.
H.R. 1231: Mr. PETERSON of Pennsylvania.
H.R. 1311: Mr. BONIOR.
H.R. 1320: Mr. BARRETT of Wisconsin and Mr. KILDEE.
H.R. 1356: Mr. RAHALL, Ms. GRANGER, and Ms. SANCHEZ.
H.R. 1398: Mr. OBERSTAR.
H.R. 1415: Mr. CUMMINGS.
H.R. 1492: Mr. CUNNINGHAM.
H.R. 1521: Mr. BOYD and Mr. MCCRERY.
H.R. 1570: Mr. SHERMAN.
H.R. 1689: Mr. RYUN.
H.R. 1766: Mr. DREIER, Ms. KILPATRICK, and Mr. HILLIARD.
H.R. 1773: Mr. BOYD.
H.R. 2009: Mr. CALVERT, Mr. HILLIARD, Mr. NEY, Mr. DEFAZIO and Ms. SANCHEZ.
H.R. 2019: Mr. CLEMENT.
H.R. 2020: Mr. MARTINEZ, Mr. CALVERT, Mr. FOX of Pennsylvania, Mr. SANDLIN, Mr. LANTOS, Mr. DOYLE, and Mr. MASCARA.
H.R. 2023: Mr. FROST, Mr. FILNER, Mr. LANTOS, Mr. BROWN of California, Mrs. MEEK of Florida, and Mr. KILDEE.
H.R. 2163: Ms. PRYCE of Ohio.
H.R. 2351: Mr. SCHUMER and Mr. FATTAH.
H.R. 2409: Mr. HINCHEY.
H.R. 2538: Mr. BARTON of Texas, Mr. BRADY, Ms. DUNN of Washington, Mr. FOSSELLA, Mr. HOSTETTLER, Mr. JONES, Mr. PAXON, Mr. RYUN, Mr. SNOWBARGER, Ms. FURSE, Mr. MARTINEZ, Mr. MORAN of Kansas, and Mr. LINDER.
H.R. 2549: Mr. PETERSON of Minnesota.
H.R. 2568: Mr. BERRY.
H.R. 2639: Ms. HARMAN and Mr. CONYERS.
H.R. 2671: Mr. NADLER.
H.R. 2678: Mr. FRANK of Massachusetts.
H.R. 2704: Mr. DIXON.
H.R. 2713: Mr. GUTIERREZ.
H.R. 2714: Mr. GIBBONS.
H.R. 2733: Mr. MURTHA, Mr. GUTIERREZ, Mr. DEAL of Georgia, Mr. YATES, Mr. CALLAHAN, Mr. SHAYS, Mr. RUSH, Mr. ANDREWS, Mr. MCCOLLUM, Mr. MCDERMOTT, Ms. LOFGREN, Mr. EVERETT, and Mr. MCNULTY.
H.R. 2752: Mr. KIM and Mr. DREIER.
H.R. 2829: Mr. ENSIGN.
H.R. 2876: Ms. STABENOW.
H.R. 2888: Mr. INGLIS of South Carolina and Mr. BEREUTER.
H.R. 2898: Mr. SANDERS.
H.R. 2912: Mr. DAVIS of Illinois.
H.R. 2921: Mr. CHAMBLISS, Mr. SANDERS, and Ms. KAPTUR.
H.R. 2929: Mr. LIVINGSTON.
H.R. 2949: Mr. LATHAM.
H.R. 2963: Ms. KILPATRICK, Mrs. MINK of Hawaii, Mr. STRICKLAND, and Mr. LANTOS.
H.R. 2983: Mr. DOYLE and Mr. MENENDEZ.
H.R. 2994: Ms. NORTON.
H.R. 3050: Mr. GONZALEZ.
H.R. 3081: Mr. ACKERMAN, Mr. MCGOVERN, Mr. GEJDENSON, and Ms. ESHOO.
H.R. 3107: Mr. TIERNEY, Mrs. MALONEY of New York, and Mr. BILIRAKIS.
H.R. 3121: Mr. BENTSEN.
H.R. 3126: Mr. DAVIS of Florida.
H.R. 3156: Mr. STRICKLAND.
H.R. 3167: Mrs. LOWEY, Mr. SCHUMER, Mr. BOEHLERT, Mr. MCHUGH, Mr. TOWNS, Mrs. MALONEY of New York, Mr. HINCHEY, Mr. QUINN, Mr. MCNULTY, Mr. MANTON, Ms. SLAUGHTER, Mr. FOSSELLA, Mr. ENGEL, Mr. MEEKS of New York, Mr. NADLER, Mr. WALSH, Ms. VELÁZQUEZ, Mr. OWENS, Mr. SERRANO, Mr. GILMAN, Mr. SOLOMON, Mr. LAFALCE, Mr. HOUGHTON, Mrs. KELLY, Mr. RANGEL, and Mr. PAXON.
H.R. 3181: Mr. WYNN.
H.R. 3217: Mr. LEWIS of Georgia.
H.R. 3236: Mr. FRANKS of New Jersey, Ms. NORTON, Ms. RIVERS, Mrs. MORELLA, Mr. CANADY of Florida, Mr. BEREUTER, Mr. ARCHER, and Mr. MORAN of Virginia.
H.R. 3243: Mr. CANADY of Florida.
H.R. 3249: Mr. DAVIS of Illinois.
H.R. 3259: Mrs. CLAYTON.
H.R. 3281: Mr. COOK, Ms. HARMAN, and Mr. MARKEY.
H.R. 3295: Mr. COYNE, Ms. LEE, Mr. MCDERMOTT, Mr. MCHALE, Mr. KASICH, and Mr. ENGEL.
H.R. 3331: Mr. BOEHNER, Mr. CALVERT, and Mr. PAPPAS.

H.R. 3342: Mr. BARRETT of Wisconsin and Mr. OLVER.

H.R. 3379: Ms. ROS-LEHTINEN, Mr. MCDERMOTT, Mr. RUSH, and Mr. FROST.

H.R. 3396: Mr. SHAW, Mr. GOODLATTE, and Mr. TAYLOR of North Carolina.

H.R. 3441: Mr. BOEHLERT, Mr. TOWNS, Mr. WELDON of Pennsylvania, Mr. EHLERS, Mrs. ROUKEMA, Mr. PORTER, Mr. MCHUGH, and Ms. FURSE.

H.R. 3469: Mr. CUMMINGS, Mr. WEYGAND, Mr. KLINK, and Mr. LEWIS of Georgia

H.R. 3506: Mr. BERRY, Ms. ESHOO, Mr. KOLBE, Mr. ROGAN, Mr. MILLER of California, Mr. MATSUI, Mr. JOHNSON of Wisconsin, Mr. PETERSON of Minnesota, Ms. STABENOW, Mr. REDMOND, Mr. FORBES, Mr. HALL of Texas, Mr. SHAW, and Mrs. ROUKEMA.

H.R. 3510: Mr. CLYBURN.

H.R. 3511: Mrs. JOHNSON of Connecticut, Mr. ENGLISH of Pennsylvania, Mr. STRICKLAND, Mr. CARDIN, Mr. MANZULLO, Mr. BURR of North Carolina, Mr. RANGEL, and Mr. BECERRA.

H.R. 3513: Mr. RANGEL, Mrs. THURMAN, and Mr. BALDACCI.

H.R. 3523: Mr. GOODE, Mr. HOSTETTLER, Mr. LAZIO of New York, Mr. REDMOND, Mr. WHITE, Mr. HOLDEN, Mr. TIERNEY, Mr. PICKERING, Mr. OXLEY, Mr. LEWIS of Kentucky, Mr. LATOURETTE, Mr. HULSHOF, Mr. KIND of Wisconsin, Mr. POMBO, Mr. DAVIS of Illinois, Mr. HILL, Mr. CRANE, and Mr. HINCHEY.

H.R. 3538: Mr. STARK, Mr. LEWIS of Georgia, and Mr. ROMERO-BARCELO.

H.R. 3552: Mr. HUTCHINSON and Mr. KINGSTON.

H.R. 3553: Mr. SERRANO, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. BLAGOJEVICH, and Ms. ROS-LEHTINEN.

H.R. 3561: Mr. GUTIERREZ and Mr. OLVER.

H.R. 3567: Mr. LOBIONDO, Mr. SHAW, and Mr. WEYGAND.

H.R. 3568: Mr. SKEEN and Ms. DELAURO.

H.R. 3595: Mr. MORAN of Virginia and Mr. LAFALCE.

H.R. 3610: Mr. KENNEDY of Rhode Island, Mr. PETERSON of Pennsylvania, and Mr. COBURN.

H.R. 3613: Mr. COMBEST, Mr. STEARNS, Ms. NORTON, Mr. CALVERT, Ms. PRYCE of Ohio, Mr. BISHOP, Mr. HALL of Texas, Mr. ADERHOLT, Mr. HUTCHINSON, Mr. KENNEDY of Rhode Island, Mr. MCINTOSH, Mr. WOLF, Ms. SANCHEZ, Mr. MCKEON, Mr. WATKINS, Mr. EHRLICH, Mr. FROST, Mr. HAYWORTH, Mr. KUCINICH, and Mr. BOYD.

H.R. 3624: Mr. FALEOMAVAEGA, Mr. PAYNE, Mr. FROST, Ms. KAPTUR, Mr. WAXMAN, Mr. SANDLIN, and Mr. POSHARD.

H.R. 3629: Mr. MCKEON.

H.R. 3651: Mr. ACKERMAN and Mr. HINCHEY.

H.R. 3652: Mr. FRANK of Massachusetts, Mrs. MALONEY of New York, Mr. BONIOR, Mr. DAVIS of Florida, Mr. GORDON, and Mr. TORRES.

H.R. 3659: Mr. CALLAHAN, Mr. GOODE, Mr. SESSIONS, Mr. ISTOOK, Mr. SMITH of Texas, and Mr. WYNN.

H.R. 3668: Mr. WATTS of Oklahoma and Mr. SPENCE.

H.R. 3672: Mr. LEWIS of Georgia, Mr. MOAKLEY, Mr. MCGOVERN, Mr. DELAHUNT, and Mr. GUTIERREZ.

H.J. Res. 89: Ms. KILPATRICK, Ms. STABENOW, and Mr. FROST.

H.J. Res. 99: Mr. FILNER, Mr. FRANKS of New Jersey, Mr. PASCRELL, and Mr. OLVER.

H. Con. Res. 36: Mr. ARMEY and Mr. HALL of Texas.

H. Con. Res. 52: Mrs. LINDA SMITH of Washington, Mr. WAMP, and Mr. DUNCAN.

H. Con. Res. 181: Ms. GRANGER, Mr. BOYD, Mr. GUTKNECHT, Mr. COSTELLO, Mr. BILBRAY, Mr. WELDON of Pennsylvania, Mr. COBLE, Mr. TALENT, Mr. SNYDER, Mr. SUNUNU, Mr. BOEHLERT, Mr. STARK, Mrs. CAPPS, Mr. SHUSTER, Mr. DAVIS of Illinois, Mr. MATSUI, Mr. MCHALE, Mr. LOBIONDO, Mr. MALONEY of Connecticut, Mr. TOWNS, Ms. HARMAN, Ms. KILPATRICK, Mr. MCKEON, Mr. CLAY, and Mr. GALLEGLY.

H. Con. Res. 217: Mr. CALVERT.

H. Con. Res. 225: Mrs. KELLY, Mr. WAXMAN, Ms. WOOLSEY, Mr. HILLIARD, Mr. GUTIERREZ, and Mr. FALEOMAVAEGA.

H. Con. Res. 228: Mr. BLUMENAUER and Mr. BARRETT of Wisconsin.

H. Con. Res. 229: Mr. BALDACCI, Mr. BLUMENAUER, Mr. CRANE, Mrs. CUBIN, Mr. DELAHUNT, Ms. ESHOO, Mr. FARR of California, Mr. FORD, Mr. GOSS, Mr. KIND of Wisconsin, Mrs. MCCARTHY of New York, Mr. MCDERMOTT, Mr. MURTHA, Mr. SALMON, Mr. DAN SCHAEFER of Colorado, Mr. SPRATT, Mr. SUNUNU, Mr. WALSH, Mr. WELDON of Pennsylvania, and Mr. WEXLER.

H. Con. Res. 239: Mr. GEJDENSON and Ms. WOOLSEY.

H. Con. Res. 249: Mr. FALEOMAVAEGA and Mr. POSHARD.

H. Res. 37: Mr. SAXTON, Mr. SABO, Mr. MICA, and Mr. STOKES.

H. Res. 399: Mr. MORAN of Kansas.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 3156: Mr. COOKSEY.

DISCHARGE PETITIONS—ADDITIONS OR DELETIONS

The following Members added their names to the following discharge petitions:

Petition 3 by Mr. BAESLER on House Resolution 259: Amo Houghton, Thomas M. Davis, Zach Wamp, Bennie G. Thompson, Barbara Lee, Frank R. Wolf, Brian P. Bilbray, Lee H. Hamilton, and Tim Roemer.

The following Members' names were withdrawn from the following discharge petition:

Petition 3 by Mr. BAESLER on House Resolution 259: Christopher Shays, Frank R. Wolf, Amo Houghton, James A. Leach, Zach Wamp, Marge Roukema, Tom Campbell, Nancy L. Johnson, Thomas M. Davis, Brian P. Bilbray, and Michael N. Castle.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 6

OFFERED BY: MR. CUMMINGS

AMENDMENT NO. 1: Page 104, after line 15, insert the following new subsection:

(h) THURGOOD MARSHALL LEGAL EDUCATION OPPORTUNITY PROGRAM.—Chapter 1 of subpart 2 of part A of title IV is amended by inserting after section 402H (20 U.S.C. 1070a-18) the following new section:

"SEC. 402I. LEGAL EDUCATIONAL OPPORTUNITY PROGRAM.

''(a) PROGRAM AUTHORITY.—The Secretary shall carry out a program to be known as the 'Thurgood Marshall Legal Educational Opportunity Program' designed to provide low-income, minority, and disadvantaged college students with the information, preparation, and financial assistance to gain access to and complete law school study.

''(b) CONTRACT AUTHORIZED.—Subject to the availability of amounts appropriated pursuant to section 402A(f), the Secretary is authorized to enter into a contract with, or make a grant to, the Council on Legal Education Opportunity, for a period of no less than 5 years—

''(1) to identify individuals from low-income, minority, and disadvantaged backgrounds;

''(2) to prepare such individuals for study at accredited law schools;

''(3) to assist students to select the appropriate law school, make application for entry into law school, and receive financial assistance for such study;

''(4) to provide support services to first-year law students to improve retention and success in law school studies; and

''(5) to motivate and prepare such students in law school studies and practice in low-income communities.

''(c) SERVICES PROVIDED.—In carrying out the purposes described in subsection (b), the contract or grant shall provide for the delivery of services through prelaw information resource centers, summer institutes, and midyear seminars conducted under this section. Such services may include—

''(1) information and counseling regarding—

''(A) accredited law school academic programs, especially tuition, fees, and admission requirements;

''(B) course work offered and required for graduation;

''(C) faculty specialties and areas of legal emphasis;

''(D) undergraduate preparatory courses and curriculum selection;

''(2) tutoring and academic counseling, including assistance in preparing for bar examinations;

''(3) prelaw mentoring programs, involving law school faculty, members of State and local bar associations, and retired and sitting judges, justices, and magistrates;

''(4) assistance in identifying preparatory courses and material for the law school aptitude or admissions tests;

''(5) summer institutes for Thurgood Marshall Fellows which expose them to a rigorous curriculum that emphasizes abstract thinking, legal analysis, research, writing, and examination techniques; and

''(6) midyear seminars and other educational activities designed to reinforce reading, writing, and studying skills of Thurgood Marshall Fellows during the first year of law school study.

''(d) SUBGRANTS AND SUBCONTRACTS.—For the purposes of planning, developing, or delivering one or more of the services described in subsection (c), the Council on Legal Education Opportunity shall make subgrants to, and subcontracts with, institutions of higher education, law schools, public and private agencies and organizations, and combinations of such institutions, schools, agencies, and organizations.

''(e) STIPENDS.—The Secretary shall annually establish the maximum stipend to be paid (including allowances for participant travel and for their dependents) to Thurgood Marshall Fellows for the period of prelaw preparation in summer institutes and midyear seminar prior to and during the period of law school study. A Fellow may be eligible for such a stipend only if the Fellow maintains satisfactory academic progress toward the Juris Doctor or Bachelor of Laws degree, as determined by the respective institutions.

''(f) MAXIMUM GRANT LEVEL.—For any year for which an appropriation is made to carry out this chapter, the Secretary shall allocate not more than $5,000,000 for the purpose of providing the services described in subsection (c).''.

H.R. 6

OFFERED BY: MR. MCGOVERN

AMENDMENT NO. 2: Page 95, after line 7, insert the following new subsection (and redesignate the succeeding subsections accordingly):

(e) PELL GRANT INCENTIVES.—Section 401(b) is further amended by adding at the end the following new paragraph:

''(9) (A) Notwithstanding the preceding provisions of this subsection, the amount of the basic grant under this section awarded to a student during the first two academic years of undergraduate education who graduated in the top 10 percent of his or her high school graduating class shall be an amount equal to twice the amount for which the student is eligible under this section as determined without regard to the provisions of this paragraph.

''(B) The Secretary shall establish by regulation procedures for the determination of eligibility of students under subparagraph (A). Such procedures shall include measures to prevent any secondary school from certifying more than 10 percent of it's students for eligibility under this paragraph.

''(C) In prescribing procedures under subparagraph (B), the Secretary shall ensure that the determination of eligibility and the amount of the award is determined in a timely manner consistent with the requirements of section 482 and the submission of the financial aid form required by section 483. For such purposes, the Secretary may provide that, for the first of a student's two academic years of eligibility under this section, class rank may be determined prior to graduation, at such time and in such manner as the Secretary may specify in the regulations prescribed under this subsection.''.

H.R. 6

OFFERED BY: MR. PAUL

AMENDMENT NO. 3: Page 50, line 13, at the end of paragraph (1) add the following new sentence: ''The Secretary shall not use the social security account numbers issued under title II of the Social Security Act as the electronic personal identifier, and shall not use any identifier used in any other Federal program as the electronic personal identifier.''.

H.R. 6

OFFERED BY: MR. STUPAK

AMENDMENT NO. 4: Page 327, after line 10, insert the following new section (and conform the table of contents accordingly):

SEC. 705. FORGIVENESS AUTHORIZED.

There are authorized to be appropriated such sums as may be necessary to permit the Secretary of Education to forgive the entire balance due, or any portion thereof, on any loan made to the Suomi College of Hancock, Michigan, under part C or part F of title III of the Higher Education Act of 1965 (as in effect on the day before the date of enactment of the Higher Education Amendments of 1992), or under the College Housing and Academic Facilities Loan program, or any other federally subsidized, insured, or authorized loan program designed to assist institutions of higher education to construct academic or dormitory facilities.

H.R. 6

OFFERED BY: MR. STUPAK

AMENDMENT NO. 5: Page 334, strike lines 20 and 21 and insert the following:

SEC. 806. REPEALS AND EXTENSIONS OF PREVIOUS HIGHER EDUCATION AMENDMENTS PROVISIONS.

Page 335, line 7, strike ''D, and E'' and insert ''and D''; and after line 7, insert the following:

(3) OLYMPIC SCHOLARSHIPS.—Section 1543(d) of the Higher Education Amendments of 1992 is amended by striking ''1993'' and inserting ''1999''.